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# Transcript of Scott Rocky

**Date:** September 27, 2019

**Case:** Elhady -v- Pew, et al.

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Transcript of Scott Rocky  
Conducted on September 27, 2019

1 (1 to 4)

1	3
1 IN THE DISTRICT COURT OF THE UNITED STATES	1 JONATHAN GOULDING
2 FOR THE EASTERN DISTRICT OF MICHIGAN	2 United States Attorney's Office
3 SOUTHERN DIVISION	3 211 West Fort Street, Suite 2001
4	4 Detroit Michigan 48226
5 ANAS ELHADY,	5 313.226.9742
6 Plaintiff,	6 jonathan.goulding@usdoj.gov
7 vs. Case No. 17-12969	7 Appearing on behalf of U.S. Customs and Border
8 Hon. Mark A. Goldsmith	8 Protection.
9 Mag. Judge Anthony P. Patti	9
10	10
11 MATTHEW PEW, et al.,	11
12 In their individual capacities, only,	12
13 Defendants.	13
14 -----	14
15	15
16	16
17 The Deposition of SCOTT ROCKY,	17
18 Taken at 211 West Fort Street, Suite 2001,	18
19 Detroit, Michigan,	19
20 Commencing at 10:14 a.m.,	20
21 Friday, September 27, 2019,	21
22 Before Joanne Smith, CSR-3099.	22
23	23
24	24
25	25
2	4
1 APPEARANCES:	1 TABLE OF CONTENTS
2	2
3 CAROLYN HOMER	3 WITNESS PAGE
4 Council on American-Islamic Relations	4 SCOTT ROCKY
5 453 New Jersey Avenue, Southeast	5
6 Washington, DC 20003	6
7 202.640.4943	7 EXAMINATION BY MS. HOMER: 5
8 chomer@cair.com	8 EXAMINATION BY MR. ANCHILL: 95
9 Appearing on behalf of the Plaintiff.	9 RE-EXAMINATION BY MS. HOMER: 107
10	10
11 BENJAMIN A. ANCHILL	11 EXHIBITS
12 JAMES J. CARTY	12
13 United States Attorney's Office	13 EXHIBIT PAGE
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15 Detroit, Michigan 48226	15
16 313.226.9566	16 DEPOSITION EXHIBIT 1 27
17 benjamin.anchill@usdoj.gov	17 DEPOSITION EXHIBIT 2 47
18 james.carty@usdoj.gov	18 DEPOSITION EXHIBIT 3 59
19 Appearing on behalf of the Defendants.	19 DEPOSITION EXHIBIT 4 73
20	20
21	21
22	22
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25	25

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2 (5 to 8)

5	<p>1 Detroit, Michigan</p> <p>2 Friday, September 27, 2019</p> <p>3 10:14 a.m.</p> <p>4 SCOTT ROCKY,</p> <p>5 was thereupon called as a witness herein, and after</p> <p>6 having first been duly sworn to testify to the truth,</p> <p>7 the whole truth and nothing but the truth, was</p> <p>8 examined and testified as follows:</p> <p>9 EXAMINATION</p> <p>10 BY MS. HOMER:</p> <p>11 Q. Good morning, Mr. Rocky. My name is Carolyn Homer.</p> <p>12 I'm an attorney at the Council of American and Islamic</p> <p>13 Relations. Could you please state and spell your</p> <p>14 whole name for the record?</p> <p>15 <b>A. Sure. It's Scott James Rocky, S-c-o-t-t, J-a-m-e-s,</b></p> <p>16 <b>R-o-c-k-y.</b></p> <p>17 Q. And Mr. Rocky, have you ever been deposed before?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Have you ever testified in court before?</p> <p>20 <b>A. No.</b></p> <p>21 Q. Have you ever been a party to any civil or criminal</p> <p>22 lawsuit before?</p> <p>23 <b>A. We -- my daughter was bit by a dog when she was</b></p> <p>24 <b>younger and we had to sue, but that was it.</b></p> <p>25 Q. But that didn't entail any depositions --</p>	7	<p>1 Q. So that means that uh-huh or un-uh or nodding your</p> <p>2 head, that doesn't show up on a transcript.</p> <p>3 <b>A. Right.</b></p> <p>4 Q. So -- Excellent. We will -- we will work on verbal</p> <p>5 communication. In addition, because we're trying to</p> <p>6 get clean questions and answers, it's important that</p> <p>7 we don't interrupt each other. It's natural in human</p> <p>8 conversation for you to assume that you know where I'm</p> <p>9 going. So sometimes I'll have to reask questions so</p> <p>10 it shows up more clearly. But can we try to not</p> <p>11 interrupt each other?</p> <p>12 <b>A. Okay.</b></p> <p>13 Q. Excellent. Every now and then your counsel, Benjamin,</p> <p>14 and counsel for Customs and Border Protection,</p> <p>15 Jonathan, may object to a question I ask and so in</p> <p>16 order to give them the space to do that, can you just</p> <p>17 try to wait a half beat before you answer a question</p> <p>18 in case they want to get something on the record?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Mr. Rocky, what is your understanding as to why you're</p> <p>21 here today?</p> <p>22 <b>A. I believe that I'm being part of a, named as part of a</b></p> <p>23 <b>Bivens lawsuit that was brought by Elhady against us.</b></p> <p>24 Q. Do you know what a Bivens lawsuit is?</p> <p>25 <b>A. I believe it is --</b></p>
6	<p>1 <b>A. No.</b></p> <p>2 Q. -- or court testifying? I'm going to give you quick</p> <p>3 instructions that your counsel probably went over with</p> <p>4 you but I'm going to repeat them. So first off, you</p> <p>5 understand that you're under oath today?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. You're sworn to tell the truth?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Is there any medical or other reason that you would be</p> <p>10 unable to provide truthful testimony today?</p> <p>11 <b>A. No.</b></p> <p>12 Q. I'm not trying to trick you but human language is hard</p> <p>13 and so if I ask a question that's unclear, please just</p> <p>14 ask me to clarify it. Can you do that?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Okay. And if I ask a question and you answer the</p> <p>17 question, is it fair for me to assume that you have</p> <p>18 understood the question?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. You're doing an excellent job of this so far but</p> <p>21 because we have a court reporter who's transcribing</p> <p>22 this in a question and answer format, it's very</p> <p>23 important to answer all my questions verbally. Can</p> <p>24 you try to answer questions verbally?</p> <p>25 <b>A. Yes.</b></p>	8	<p>1 MR. ANCHILL: I object. It calls for a</p> <p>2 legal conclusion.</p> <p>3 BY MS. HOMER:</p> <p>4 Q. You can still answer.</p> <p>5 MR. ANCHILL: Go.</p> <p>6 THE WITNESS: I believe it is suing us in</p> <p>7 our individual capacities.</p> <p>8 BY MS. HOMER:</p> <p>9 Q. Do you have any memory of Anas Elhady?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Okay. We're going to get to that later but that's</p> <p>12 good to know. What did you do to prepare for your</p> <p>13 testimony today?</p> <p>14 <b>A. I don't understand.</b></p> <p>15 Q. Great. Okay. Before coming here today, did you</p> <p>16 review any documents about this case?</p> <p>17 <b>A. I reviewed the record that was given to me.</b></p> <p>18 Q. Okay. And do you know what record that was?</p> <p>19 <b>A. I believe it was the TECS record that was printed out.</b></p> <p>20 Q. Okay. Aside from the TECS record did you review</p> <p>21 anything else?</p> <p>22 <b>A. No.</b></p> <p>23 Q. Mr. Rocky, what is your educational background?</p> <p>24 <b>A. I have a high school diploma. I have basic U.S.</b></p> <p>25 <b>Customs and Border Protection training. I attended</b></p>

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3 (9 to 12)

9	<p>1 the American University, American Military University</p> <p>2 towards a degree in homeland security. I have classes</p> <p>3 that I've taken as part of being a Customs and Border</p> <p>4 Protection officer.</p> <p>5 Q. Okay. So you said you attended this American</p> <p>6 University Homeland Security Program?</p> <p>7 A. It's the American Military University.</p> <p>8 Q. American Military University?</p> <p>9 A. AMU.</p> <p>10 Q. But you did not complete a degree there, at least not</p> <p>11 yet?</p> <p>12 A. No.</p> <p>13 Q. Okay. Are you still working on a degree there?</p> <p>14 A. No.</p> <p>15 Q. Okay. What certifications do you have? You mentioned</p> <p>16 that you had gotten some CBP training, right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Did any of those trainings lead to like a</p> <p>19 formal certification of any sort?</p> <p>20 A. Well, I have basic first aid, American Red Cross, CPR.</p> <p>21 Q. Okay. You are not a certified emergency medical</p> <p>22 technician?</p> <p>23 A. No.</p> <p>24 Q. What courses have you attended as part of your CBP</p> <p>25 training?</p>	11	<p>1 A. No.</p> <p>2 Q. When did that change?</p> <p>3 A. Sorry. They ended the counter-terrorism response</p> <p>4 officer maybe four years ago, five years ago.</p> <p>5 Q. Were you a counter terrorism response officer in 2015?</p> <p>6 A. Yes.</p> <p>7 Q. When they, by they do you mean CBP, when they ended?</p> <p>8 A. Yes, I mean CBP.</p> <p>9 Q. Okay. So when CBP ended the counter-terrorism</p> <p>10 response officer designation, did they replace it with</p> <p>11 a similar title or designation?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. What did they replace it with?</p> <p>14 A. The tactical terrorism response team.</p> <p>15 Q. Are you a member of a tactical terrorist response</p> <p>16 team?</p> <p>17 A. No.</p> <p>18 Q. Why not?</p> <p>19 A. The job description as I knew it changed and I didn't</p> <p>20 want to go through the additional training.</p> <p>21 Q. So what was the job description of a counter-terrorism</p> <p>22 response officer?</p> <p>23 MR. GOULDING: Objection, scope, law</p> <p>24 enforcement privilege and I'll direct the witness not</p> <p>25 to answer.</p>
10	<p>1 A. Well, most recently I attended an x-ray training</p> <p>2 class. We have yearly recertifications we have to do</p> <p>3 and I also was a CTR officer.</p> <p>4 Q. What's a CTR officer?</p> <p>5 A. Counter-terrorism response officer.</p> <p>6 Q. Okay. Is CBP your current employer?</p> <p>7 A. Yes.</p> <p>8 Q. How long have you been employed by CBP?</p> <p>9 A. Since May of 2008.</p> <p>10 Q. And CBP has been your employer for the last 11 years?</p> <p>11 A. Yes.</p> <p>12 Q. When you were hired in 2008 by CBP, what was your job</p> <p>13 title?</p> <p>14 A. U.S. Customs and Border Protection officer.</p> <p>15 Q. And have you been promoted or has your title changed</p> <p>16 since then?</p> <p>17 A. No.</p> <p>18 Q. Have you ever held a supervisory position?</p> <p>19 A. No.</p> <p>20 Q. At what point did you become a counter-terrorism</p> <p>21 response officer?</p> <p>22 A. It may have been 2012 or 2013. I don't remember the</p> <p>23 exact date.</p> <p>24 Q. And are you still a counter-terrorism response</p> <p>25 officer?</p>	12	<p>1 BY MS. HOMER:</p> <p>2 Q. What is the job description of a tactical terrorism</p> <p>3 response team member?</p> <p>4 MR. GOULDING: Objection, scope, law</p> <p>5 enforcement privilege and I'll direct the witness not</p> <p>6 to answer.</p> <p>7 BY MS. HOMER:</p> <p>8 Q. Since 2008 in your time at CBP, where have you</p> <p>9 physically worked?</p> <p>10 A. I started at the Fort Street Customs facility. I was</p> <p>11 there for three, maybe four months, and then I</p> <p>12 transferred to the Ambassador Bridge passenger</p> <p>13 facility and I've been there since.</p> <p>14 Q. So you have been stationed at the Ambassador Bridge</p> <p>15 exclusively for approximately a decade?</p> <p>16 A. Yes.</p> <p>17 Q. Would you describe yourself as familiar with the</p> <p>18 operations of the Ambassador Bridge?</p> <p>19 A. Yes.</p> <p>20 Q. Have you held any other special designations like</p> <p>21 counter-terrorism response officer during your</p> <p>22 decade --</p> <p>23 A. No.</p> <p>24 Q. -- at the Ambassador Bridge?</p> <p>25 A. Sorry.</p>

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4 (13 to 16)

13	<p>1 Q. You're fine. What additional responsibilities does</p> <p>2 being a counter-terrorism response officer include in</p> <p>3 addition to being a Customs and Border Protection</p> <p>4 officer?</p> <p>5 MR. GOULDING: You first.</p> <p>6 MR. ANCHILL: Objection, form.</p> <p>7 MR. GOULDING: Scope, law enforcement</p> <p>8 privilege and I'll direct the witness not to answer.</p> <p>9 BY MS. HOMER:</p> <p>10 Q. When you were a counter-terrorism response officer,</p> <p>11 who did you report to?</p> <p>12 <b>A. That would have been the immediate supervisor on</b></p> <p>13 <b>shift.</b></p> <p>14 Q. Okay. And would that immediate supervisor have a</p> <p>15 specific title?</p> <p>16 <b>A. Supervisory Customs and Border Protection officer.</b></p> <p>17 Q. How did being a counter-terrorism response officer</p> <p>18 interact with the joint terrorism task force?</p> <p>19 MR. GOULDING: Objection, scope, law</p> <p>20 enforcement privilege and I'll direct the witness not</p> <p>21 to answer.</p> <p>22 BY MS. HOMER:</p> <p>23 Q. Okay. So in April of 2015, am I correct that you were</p> <p>24 a Customs and Border Protection officer who was also</p> <p>25 designated as a counter-terrorism response officer?</p>	15	<p>1 6:00 a.m. to 4:00 p.m. at that time.</p> <p>2 Q. But your shift started at 6:00 a.m.?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. You would never have worked between midnight and 6:00</p> <p>5 a.m.?</p> <p>6 <b>A. I may have for overtime.</b></p> <p>7 Q. How -- So it's my understanding that CBP kind of</p> <p>8 allots a certain amount of overtime that officers can</p> <p>9 work in a year. Is that roughly fair?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Okay. And then do you try to max out your overtime</p> <p>12 every year?</p> <p>13 <b>A. No.</b></p> <p>14 Q. No. Okay. But every now and then you do pick up</p> <p>15 overtime?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. So it's possible you could have worked a midnight</p> <p>18 shift but that was not your standard shift?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Okay. There's a central building at the Ambassador</p> <p>21 Bridge port of entry where secondary inspections are</p> <p>22 conducted; is that correct?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. What do you call that building?</p> <p>25 <b>A. Secondary.</b></p>
14	<p>1 <b>A. Yes.</b></p> <p>2 Q. What were your job responsibilities within Customs and</p> <p>3 Border Protection generally in April of 2015?</p> <p>4 <b>A. Generally as a U.S. Customs and Border Protection</b></p> <p>5 <b>officer, I was charged with interviewing people on</b></p> <p>6 <b>primary, determining their admissibility into the</b></p> <p>7 <b>United States.</b></p> <p>8 Q. Did you have any role in performing secondary</p> <p>9 inspections as well?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And did you frequently switch between primary and</p> <p>12 secondary inspection duties?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Was there anything that could not be categorized as</p> <p>15 primary or secondary inspections that you were doing</p> <p>16 for CBP in April 2015?</p> <p>17 <b>A. Vehicle inspections, which would also be a form of</b></p> <p>18 <b>secondary.</b></p> <p>19 Q. But you didn't have any sort of back office or</p> <p>20 management or supervisor role in April 2015?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Did you have a set shift schedule in April 2015?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. What was your shift?</p> <p>25 <b>A. 2015, I'm not sure if I was 6:00 a.m. to 2:00 p.m. or</b></p>	16	<p>1 Q. Secondary. Okay. So if I refer to the secondary</p> <p>2 building for the rest of this deposition, you'll know</p> <p>3 what I'm talking about?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Can you describe the secondary building?</p> <p>6 <b>A. Two-story building, longer than it is wide.</b></p> <p>7 Q. What physical condition is it in?</p> <p>8 <b>A. Varies, depending upon the state of repair it's in.</b></p> <p>9 Q. How would you describe the state of repair?</p> <p>10 <b>A. Ongoing.</b></p> <p>11 Q. Ongoing. Is it an old building?</p> <p>12 <b>A. I don't know when it was constructed.</b></p> <p>13 Q. Have you seen it undergo renovations in the decade</p> <p>14 you've been working there?</p> <p>15 <b>A. I've seen it undergo repairs.</b></p> <p>16 Q. What repairs have you seen it undergo?</p> <p>17 <b>A. Paint, new floor, new light fixtures put in in the</b></p> <p>18 <b>lobby area.</b></p> <p>19 Q. Have you seen any like wholesale remodel where walls</p> <p>20 are knocked down and rebuilt?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Have you seen any changes to the heating and cooling</p> <p>23 system?</p> <p>24 <b>A. No.</b></p> <p>25 Q. Do you have any role in identifying, identifying</p>

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5 (17 to 20)

17	<p>1 maintenance problems in the building and requesting</p> <p>2 their repair?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Do you know who is primarily responsible for</p> <p>5 maintaining the physical condition of the building?</p> <p>6 <b>A. I believe that's the bridge company.</b></p> <p>7 Q. Okay. And is that its title, the bridge company, or</p> <p>8 does it have a formal name?</p> <p>9 <b>A. Ambassador Bridge Company. I'm not sure if it's a</b></p> <p>10 <b>formal name.</b></p> <p>11 Q. Okay. Is it your understanding that CBP leases that</p> <p>12 secondary building from the bridge company?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Do you know anything about how maintenance records are</p> <p>15 maintained in the secondary building?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Have you ever been in an office that keeps like</p> <p>18 elevator records on file, something like that?</p> <p>19 <b>A. Not that I'm aware of.</b></p> <p>20 Q. Okay. You've never had cause to look through</p> <p>21 maintenance records?</p> <p>22 <b>A. No.</b></p> <p>23 Q. Are you aware of any complaints about the temperature</p> <p>24 of the building?</p> <p>25 <b>A. We will have passengers come in from when it's really</b></p>	19
18	<p>1 <b>hot outside and say it's cold or when it's really cold</b></p> <p>2 <b>outside and say it's hot, but I think that is more of</b></p> <p>3 <b>a matter of perception.</b></p> <p>4 Q. Have you heard any complaints of it being particularly</p> <p>5 hot during the summer?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Or any complaints about it being particularly cold in</p> <p>8 the winter?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Do you have any knowledge as to the actual temperature</p> <p>11 of the building at any given time?</p> <p>12 <b>A. To the best of my knowledge, the thermostat is at 72.</b></p> <p>13 Q. So 72 degrees is the standard temperature it's</p> <p>14 supposed to be set at?</p> <p>15 <b>A. I believe.</b></p> <p>16 Q. Have you personally ever adjusted the thermostat in</p> <p>17 the building?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Am I correct there's only one thermostat in the entire</p> <p>20 building?</p> <p>21 <b>A. No.</b></p> <p>22 Q. No. Okay. What thermostats are you aware of?</p> <p>23 <b>A. There's a thermostat on the second floor and two</b></p> <p>24 <b>thermostats on the first floor.</b></p> <p>25 Q. And which floor is the main secondary inspection lobby</p>	20
	<p>1 on?</p> <p>2 <b>A. The first floor.</b></p> <p>3 Q. And which floor is like the secondary inspection</p> <p>4 holding cells on?</p> <p>5 <b>A. The first floor.</b></p> <p>6 Q. So on the first floor there are two thermostats you</p> <p>7 said?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Can you describe where those thermostats are located?</p> <p>10 <b>A. One is in the lobby area and one is just outside the</b></p> <p>11 <b>lobby area.</b></p> <p>12 Q. How does a person go about changing the temperature on</p> <p>13 either of those thermostats on the first floor?</p> <p>14 <b>A. They are kept locked.</b></p> <p>15 Q. Who has a key?</p> <p>16 <b>A. Supervisor.</b></p> <p>17 Q. Is there only one supervisor with a key or do all</p> <p>18 supervisors have a key? Do you know?</p> <p>19 <b>A. The supervisors have access to the key.</b></p> <p>20 Q. Okay. Do you know where the key is stored?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Where?</p> <p>23 <b>A. In the supervisor's office.</b></p> <p>24 Q. And what floor is the supervisor's office on?</p> <p>25 <b>A. The first floor.</b></p>	



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6 (21 to 24)

21	<p>1 Q. Have you personally ever complained about any other</p> <p>2 maintenance problems in the secondary building?</p> <p>3 <b>A. No.</b></p> <p>4 Q. And are you aware of any changes to the thermostat</p> <p>5 system in the decade that you've worked at the</p> <p>6 Ambassador Bridge?</p> <p>7 <b>A. No.</b></p> <p>8 Q. Have you ever heard a report that thermostat was</p> <p>9 broken?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Have you ever measured the temperature in the building</p> <p>12 with something other than a thermostat? Okay. Let me</p> <p>13 clarify. Like sometimes when I'm looking I have a</p> <p>14 little laser that tells me the actual temperature.</p> <p>15 Have you ever used something like that to determine if</p> <p>16 like one part of the building is hotter or colder than</p> <p>17 another?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Okay. When a traveler is referred to secondary</p> <p>20 inspection -- so let's see if my understanding is</p> <p>21 right -- sometimes the secondary inspection just</p> <p>22 happens while they're still in their car and they go</p> <p>23 on their way; is that correct?</p> <p>24 <b>A. I'm not sure -- I'm not sure what you're asking me</b></p> <p>25 <b>here.</b></p>	23	<p>1 <b>A. Could be.</b></p> <p>2 Q. Is there anywhere else that travelers referred to</p> <p>3 secondary inspection are sent other than the public</p> <p>4 lobby or the detention cells?</p> <p>5 <b>A. No.</b></p> <p>6 Q. What is CBP's policy regarding when a traveler is put</p> <p>7 in a holding cell as opposed to the public lobby?</p> <p>8 <b>MR. GOULDING:</b> That's a very broad</p> <p>9 question.</p> <p>10 <b>MS. HOMER:</b> It is a broad question.</p> <p>11 <b>MR. GOULDING:</b> I'm going to object. Scope,</p> <p>12 law enforcement privilege and direct the witness not</p> <p>13 to answer.</p> <p>14 <b>MS. HOMER:</b> Okay.</p> <p>15 <b>BY MS. HOMER:</b></p> <p>16 Q. When a traveler is placed in a holding cell, how long</p> <p>17 are they permitted to be held there by CBP policy?</p> <p>18 <b>A. After a certain amount of time we have to notify the</b></p> <p>19 <b>port director. Past that, I believe we have to notify</b></p> <p>20 <b>the AUSA and let them make a determination.</b></p> <p>21 Q. And how much time goes by before you have to notify</p> <p>22 the port director?</p> <p>23 <b>A. I believe four hours.</b></p> <p>24 Q. And how much time before you have to notify the AUSA?</p> <p>25 <b>A. I believe it's eight hours.</b></p>
22	<p>1 Q. Okay. I'm trying -- I'm trying to understand kind of</p> <p>2 the different things that could happen while somebody</p> <p>3 is in secondary inspection. Okay? So my</p> <p>4 understanding of the process is, if you're referred to</p> <p>5 secondary, an individual in their car, go park in like</p> <p>6 a secondary parking lot; is that fair?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Okay. And that there are some people who never leave</p> <p>9 that parking lot, they answer some more questions and</p> <p>10 then are sent on their way; is that true?</p> <p>11 <b>A. No.</b></p> <p>12 Q. Okay. Are most people who are sent to secondary</p> <p>13 inspection then sent to the public lobby on the first</p> <p>14 floor of the secondary building?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And then are some individuals sent back to secondary</p> <p>17 inspection put in one of the holding cells on the</p> <p>18 first floor?</p> <p>19 <b>A. Sometimes.</b></p> <p>20 Q. Do you have a rough sense of what percentage of</p> <p>21 travelers sent to secondary are put in a holding cell</p> <p>22 as opposed to waiting in the public lobby?</p> <p>23 <b>A. I couldn't give you an exact percentage but it would</b></p> <p>24 <b>be very, very small.</b></p> <p>25 Q. So like less than one percent maybe?</p>	24	<p>1 Q. Have you personally ever notified an AUSA because</p> <p>2 somebody had been held for more than eight hours?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Have you ever been on duty when an AUSA was notified</p> <p>5 because somebody had been held for more than eight</p> <p>6 hours?</p> <p>7 <b>A. I couldn't tell you.</b></p> <p>8 Q. I guess -- or more -- more clearly, have you ever been</p> <p>9 involved in the decision to call an AUSA even if you</p> <p>10 did not personally make the phone call?</p> <p>11 <b>A. No.</b></p> <p>12 Q. If CBP is, has made the determination to place a</p> <p>13 traveler in a holding cell, do they usually handcuff</p> <p>14 that traveler before putting him in the holding cell?</p> <p>15 <b>A. Usually.</b></p> <p>16 Q. What items is a traveler who is being placed in a</p> <p>17 holding cell allowed to have with them?</p> <p>18 <b>A. None of their personal items that would be in their</b></p> <p>19 <b>pocket. We would remove outer jackets. We would</b></p> <p>20 <b>remove the belt and the shoes.</b></p> <p>21 Q. And would you also remove like a purse or laptop bag?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. Cell phone in a pocket?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Any other luggage they might have with them?</p>

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7 (25 to 28)

25	<p>1 <b>A. They would not have that.</b></p> <p>2 Q. They would not have luggage. How about jewelry, like</p> <p>3 necklaces?</p> <p>4 <b>A. That would also be removed.</b></p> <p>5 Q. Hats?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. You mentioned shoes. Would you remove their socks if</p> <p>8 they had them on?</p> <p>9 <b>A. No.</b></p> <p>10 Q. And why are all of these items removed before placing</p> <p>11 someone in a holding cell?</p> <p>12 <b>A. To reduce the risk or chance of them injuring</b></p> <p>13 <b>themselves or someone else that may enter the cell.</b></p> <p>14 Q. So you don't want them having any item, for example,</p> <p>15 they can use to hang themselves?</p> <p>16 <b>A. Correct.</b></p> <p>17 Q. Have you ever seen an individual detained in a holding</p> <p>18 cell who tries to harm himself?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Approximately how many times?</p> <p>21 <b>A. Maybe twice.</b></p> <p>22 Q. And those occasions stand out to you?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Can you just give me a brief overview of what happened</p> <p>25 on those two occasions?</p>	27	<p>1 Q. So I am going to mark Exhibit 1 to today's deposition</p> <p>2 and off the record for a split second.</p> <p>3 (Off the record at 10:45 a.m.)</p> <p>4 (Back on the record at 10:45 a.m.)</p> <p>5 MARKED FOR IDENTIFICATION:</p> <p>6 DEPOSITION EXHIBIT 1</p> <p>7 10:45 a.m.</p> <p>8 BY MS. HOMER:</p> <p>9 Q. Okay. Mr. Rocky, do you recognize these specific</p> <p>10 photos?</p> <p>11 <b>A. I believe this would be what I would refer to as cell</b></p> <p>12 <b>two. This would be cell one.</b></p> <p>13 Q. And do you know what the third picture is of?</p> <p>14 <b>A. It looks like a different angle of picture number one.</b></p> <p>15 Q. Okay. Did you take the actual photos that are printed</p> <p>16 here?</p> <p>17 <b>A. No.</b></p> <p>18 Q. But you recognize them as being of the two holding</p> <p>19 cells at the Ambassador Bridge secondary building?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Approximately how big is cell one?</p> <p>22 <b>A. I couldn't tell you the exact size. Probably 15 by</b></p> <p>23 <b>15.</b></p> <p>24 Q. Is it bigger or smaller than this conference room?</p> <p>25 <b>A. Smaller.</b></p>
26	<p>1 <b>A. I went to check on a person in a cell and he was</b></p> <p>2 <b>slamming his head into the wall.</b></p> <p>3 Q. That's one of the times. What happened the second</p> <p>4 time?</p> <p>5 <b>A. The second time was a woman and she kept trying to</b></p> <p>6 <b>slam herself up against the door.</b></p> <p>7 Q. And how did you respond in those circumstances where</p> <p>8 there were individuals slamming themselves?</p> <p>9 <b>A. Went and got supervision. Notified supervision.</b></p> <p>10 Q. Were you involved afterwards in how your supervisors</p> <p>11 handled that situation?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Was any medical attention called to the cells?</p> <p>14 <b>A. Not that I can recall.</b></p> <p>15 Q. What was done to make the individuals stop slamming</p> <p>16 themselves against the wall or door?</p> <p>17 <b>A. They were secured to the bench.</b></p> <p>18 Q. With handcuffs?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Okay. Would you describe yourself as generally</p> <p>21 familiar with the holding cells at the Ambassador</p> <p>22 Bridge?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. How many of them are there?</p> <p>25 <b>A. Two.</b></p>	28	<p>1 Q. And then approximately how big is cell two?</p> <p>2 <b>A. Same size.</b></p> <p>3 Q. Do you have any role in maintaining the cleanliness or</p> <p>4 physical condition of these cells?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Do you know who does?</p> <p>7 <b>A. The -- I believe General Services Administration takes</b></p> <p>8 <b>care of that.</b></p> <p>9 Q. And that's the GSA is the government facilities</p> <p>10 body --</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. -- agency?</p> <p>13 <b>A. (Indicating in the affirmative).</b></p> <p>14 Q. Okay. What is inside these cells?</p> <p>15 <b>A. Basically just what the pictures show.</b></p> <p>16 Q. Okay. So I see a bench?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. And is that bench bolted into the floor or wall?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Okay. And what material is the bench made out of?</p> <p>21 <b>A. Wood and metal.</b></p> <p>22 Q. And then I see what looks to be like concrete blocks.</p> <p>23 That's what the walls are made out of?</p> <p>24 <b>A. They're -- yes.</b></p> <p>25 Q. Okay. Then also concrete floors?</p>



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8 (29 to 32)

29	<p>1 <b>A. Yes.</b></p> <p>2 Q. And then in one cell it looks like there's a concrete</p> <p>3 privacy wall?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And then -- Okay. That's in cell two. And then in</p> <p>6 cell one it looks like there's a metal privacy wall?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And then behind those walls there are toilets; right?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Is there a water fountain or hand washing station,</p> <p>11 too?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Is that attached to the toilet? Is it part of the</p> <p>14 same unit?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Is that water drinkable?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Do you know if anyone ever like performs sanitary</p> <p>19 inspections to ensure that it's drinkable?</p> <p>20 <b>A. Not to my knowledge.</b></p> <p>21 Q. On the third one of these pictures there are lights.</p> <p>22 Do you see that?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Is that basically the same lighting that is in both</p> <p>25 cells?</p>	31	<p>1 <b>A. There's a window in the door.</b></p> <p>2 Q. Okay. And the window in the door, what does it look</p> <p>3 out on, the hallway?</p> <p>4 <b>A. The hallway.</b></p> <p>5 Q. Okay. Are there any windows to the outside world?</p> <p>6 <b>A. In the cells?</b></p> <p>7 Q. In the cells.</p> <p>8 <b>A. No.</b></p> <p>9 Q. So across from the door, like the back wall of the</p> <p>10 window or -- Start over. So across from the door with</p> <p>11 the window, like the other wall, is that an interior</p> <p>12 wall to somewhere else in the building or is it back</p> <p>13 up against an exterior wall of the building?</p> <p>14 <b>A. Looking out from the cell?</b></p> <p>15 Q. No. Okay. So let's say you walk in the door.</p> <p>16 <b>A. Okay.</b></p> <p>17 Q. The wall you're staring at when you walk in the door,</p> <p>18 what does that wall back up against?</p> <p>19 <b>A. I believe that's an exterior wall.</b></p> <p>20 Q. Also looking on page 3, there appears to be a vent in</p> <p>21 kind of the middle of the picture?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. What is that?</p> <p>24 <b>A. A vent.</b></p> <p>25 Q. Is it -- is it an air vent?</p>
30	<p>1 <b>A. Could be.</b></p> <p>2 Q. How would you describe those lights? I mean, are they</p> <p>3 bright? Are they dim? Are they large? Are they</p> <p>4 small? I mean, just --</p> <p>5 <b>A. They're lights -- the one in the picture on page 3,</b></p> <p>6 <b>they look like these with a filter over them.</b></p> <p>7 Q. Okay.</p> <p>8 MS. HOMER: And just let the record reflect</p> <p>9 that the witness pointed to the overhead lights in</p> <p>10 this conference room.</p> <p>11 MR. GOULDING: They're 48-inch fluorescent</p> <p>12 lights.</p> <p>13 MS. HOMER: I'm sure the General Services</p> <p>14 Administration can give us more information.</p> <p>15 BY MS. HOMER:</p> <p>16 Q. Okay. Do those lights, do they have any sort of</p> <p>17 dimmer switch on them? Like can their brightness be</p> <p>18 adjusted?</p> <p>19 <b>A. No.</b></p> <p>20 Q. So are they either all on or all off?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Does it -- if they are off, is it very dark in that</p> <p>23 cell?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Does the cell have any windows?</p>	32	<p>1 <b>A. Yes.</b></p> <p>2 Q. Does it have both hot and cold air, depending on the</p> <p>3 season?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Okay. And then between the lights on the ceiling,</p> <p>6 there's like a mesh thing. I honestly don't know what</p> <p>7 it is. Do you know what that is?</p> <p>8 <b>A. I apologize. I thought that's what you were talking</b></p> <p>9 <b>about.</b></p> <p>10 Q. Oh, I apologize. Okay. Let's clarify. So between</p> <p>11 the lights there's this mesh box. What is that?</p> <p>12 <b>A. I believe that is the heating and cooling system.</b></p> <p>13 Q. Okay. And then if you go down onto the side of the</p> <p>14 wall there's another little mesh box. Do you know</p> <p>15 what that is?</p> <p>16 <b>A. Personally, I believe that would be the cold air</b></p> <p>17 <b>return.</b></p> <p>18 Q. Okay. So if I understand you right, the ceiling is</p> <p>19 where air gets sent into the cell and the wall is</p> <p>20 where air gets taken out of the cell?</p> <p>21 <b>A. I believe.</b></p> <p>22 Q. You believe so. Great. Thank you.</p> <p>23 <b>A. I'm not an HVAC guy so that's pure speculation on my</b></p> <p>24 <b>part.</b></p> <p>25 Q. I understand. I promise I'm asking this question to</p>

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9 (33 to 36)

33	<p>1 more people than yourself. Just trying to see what</p> <p>2 you understand. Okay. But to your knowledge, both</p> <p>3 hot and cold air is sent into the cell through the</p> <p>4 ceiling vent, depending on the season?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Are there any cameras in the holding cells?</p> <p>7 <b>A. No.</b></p> <p>8 Q. Do you know why not?</p> <p>9 <b>A. For the individual's privacy.</b></p> <p>10 Q. Are there any cameras in the hallways right outside</p> <p>11 the holding cells?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Do you know why not?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Are -- okay. So you said there is a window in the</p> <p>16 door to each of the cells; correct?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. And a CBP officer could look in through that window to</p> <p>19 see what's going on in the cell?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Can a CBP officer see the entire cell when he or she</p> <p>22 looks in through that window?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. How can they see the entire cell?</p> <p>25 <b>A. If you look on the picture number one in the top right</b></p>	35	<p>1 <b>A. Correct.</b></p> <p>2 Q. And then the mirror would be reflecting behind this</p> <p>3 privacy area?</p> <p>4 <b>A. Yes. And in the corner.</b></p> <p>5 Q. And on the next page, which is of cell one; right?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Where is the mirror here?</p> <p>8 <b>A. Top left.</b></p> <p>9 Q. Okay. And where is the door?</p> <p>10 <b>A. It would be in line with the bench.</b></p> <p>11 Q. Okay. So, similarly, when you open the door, you</p> <p>12 would see the bench, then you could look up to the</p> <p>13 mirror to see behind the privacy screen?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Are there any microphones to pick up audio in a cell?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Are there any speakers or intercoms to convey audio</p> <p>18 messages into the cell?</p> <p>19 <b>A. No.</b></p> <p>20 Q. Is there any sort of like buzzer system so that</p> <p>21 somebody within the cell could hit a button to get</p> <p>22 someone's attention?</p> <p>23 <b>A. No.</b></p> <p>24 Q. How do individuals who are in a cell get the attention</p> <p>25 of CBP officers?</p>
34	<p>1 <b>corner there's a mirror.</b></p> <p>2 Q. So where -- Would you agree with me that these photos</p> <p>3 are only partial photos of the cell; they don't</p> <p>4 capture everything?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Okay. So when you're looking at this first photo,</p> <p>7 which you said was cell two, is the door in</p> <p>8 relationship to the mirror?</p> <p>9 <b>A. The opening on the picture in the bottom right-hand</b></p> <p>10 <b>corner, the door would be opposite that.</b></p> <p>11 Q. So --</p> <p>12 <b>A. No. It would be right here.</b></p> <p>13 Q. Oh, okay.</p> <p>14 <b>A. I don't know how else to describe it.</b></p> <p>15 Q. Okay.</p> <p>16 MS. HOMER: So let the record reflect that</p> <p>17 the witness is pointing to the bottom third.</p> <p>18 THE WITNESS: It would be to the right of</p> <p>19 the bench behind the bench or in front of the bench as</p> <p>20 it's facing you.</p> <p>21 BY MS. HOMER:</p> <p>22 Q. Okay. So when you look in, you would see the bench to</p> <p>23 your left?</p> <p>24 <b>A. Correct.</b></p> <p>25 Q. And then you would see the mirror to your top right?</p>	36	<p>1 <b>A. Generally by knocking on the door.</b></p> <p>2 Q. And knocking on the door can be heard from out in the</p> <p>3 hall?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. How far away can the knock be heard?</p> <p>6 <b>A. Depends upon how hard they knock.</b></p> <p>7 Q. Okay. So I guess an ordinary knock?</p> <p>8 <b>A. Probably down towards the interview rooms you can hear</b></p> <p>9 <b>somebody knocking on the door.</b></p> <p>10 Q. How far away are the interview rooms?</p> <p>11 <b>A. Ten, 15 feet, if, if that much.</b></p> <p>12 Q. Are there CBP officers stationed in the hallway</p> <p>13 outside of the holding cells whenever somebody is in a</p> <p>14 holding cell?</p> <p>15 <b>A. No.</b></p> <p>16 Q. How -- Are CBP officers like making rounds and</p> <p>17 checking in on the holding cells regularly?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. How often are CBP officers supposed to be checking in?</p> <p>20 <b>A. Every 15 minutes.</b></p> <p>21 Q. So if I'm understanding this right, even if somebody</p> <p>22 knocks on the door from inside the cell and doesn't</p> <p>23 get a CBP officer's attention, somebody should still</p> <p>24 be coming by within the next 15 minutes?</p> <p>25 <b>A. Yes.</b></p>

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10 (37 to 40)

37	<p>1 Q. Do CBP officers ever intentionally ignore an</p> <p>2 individual knocking on the door?</p> <p>3 <b>A. No.</b></p> <p>4 Q. If an individual in a cell is being really annoying</p> <p>5 and knocking constantly, would a CBP officer ignore</p> <p>6 that?</p> <p>7 <b>A. No.</b></p> <p>8 Q. How would you describe the doors to these cells?</p> <p>9 <b>A. They're metal doors with a window.</b></p> <p>10 Q. Can you hear sound through them?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Can you hear an ordinary conversation through them?</p> <p>13 <b>A. I would have to talk maybe a little louder than normal</b></p> <p>14 <b>but other than that.</b></p> <p>15 Q. If someone was screaming at the top of their lungs,</p> <p>16 how far away down the hall would you be able to hear</p> <p>17 that?</p> <p>18 <b>A. You'd be able to hear that in the lobby, at the very</b></p> <p>19 <b>least.</b></p> <p>20 Q. If officers were having just a conversation in this</p> <p>21 tone of voice right outside the door, would you be</p> <p>22 able to hear the words of the conversation?</p> <p>23 <b>A. I don't know.</b></p> <p>24 Q. Have you ever been locked in one of the cells?</p> <p>25 <b>A. No.</b></p>	39	<p>1 <b>A. It would be to get an answer to a quick question.</b></p> <p>2 Q. Have you ever conducted like a ten minute or more</p> <p>3 questioning session in a holding cell?</p> <p>4 <b>A. No.</b></p> <p>5 Q. What amenities are travelers provided with while in a</p> <p>6 holding cell?</p> <p>7 <b>A. What do you mean by amenities?</b></p> <p>8 Q. That is a good question. Are they provided with</p> <p>9 water?</p> <p>10 <b>A. There's a drinking fountain.</b></p> <p>11 Q. Okay. Do they ever request like bottled water</p> <p>12 instead?</p> <p>13 <b>A. No.</b></p> <p>14 Q. Are travelers provided with food while in a holding</p> <p>15 cell?</p> <p>16 <b>A. Depends upon their length of stay in the cell.</b></p> <p>17 Q. Is there a minimum length of stay after which CBP must</p> <p>18 provide travelers with food?</p> <p>19 <b>A. Not that I'm aware of.</b></p> <p>20 Q. You personally, when have you provided food to</p> <p>21 travelers in the cells?</p> <p>22 <b>A. I personally have not.</b></p> <p>23 Q. Okay. You have never brought food to somebody in a</p> <p>24 holding cell?</p> <p>25 <b>A. No.</b></p>
38	<p>1 Q. Have you ever been locked in one of the cells with an</p> <p>2 individual in the cell?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Have you ever questioned an individual in a holding</p> <p>5 cell?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. How common is that, to question an individual in the</p> <p>8 holding cell?</p> <p>9 <b>A. Not that common.</b></p> <p>10 Q. Why?</p> <p>11 <b>A. Mostly it's because if we're doing an interview with</b></p> <p>12 <b>somebody in a cell, we would take them to a secure</b></p> <p>13 <b>interview area.</b></p> <p>14 Q. And where is the secured interview area?</p> <p>15 <b>A. Ten to 15 feet down the hallway.</b></p> <p>16 Q. And what makes the secured interview area different</p> <p>17 from a holding cell?</p> <p>18 <b>A. More comfortable for everybody involved. A softer</b></p> <p>19 <b>chair that they can sit in to talk to.</b></p> <p>20 Q. Are there cameras in the secure interview area?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. On the occasions that you have questioned a traveler</p> <p>23 in the holding cell as opposed to taking them to the</p> <p>24 secure interview area for questioning, why did you do</p> <p>25 that?</p>	40	<p>1 Q. Have you ever instructed someone else to bring food to</p> <p>2 somebody in a holding cell?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Has a traveler ever asked you for food while they were</p> <p>5 in the holding cell?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Okay. And we mentioned earlier there are bathroom</p> <p>8 facilities in the cell including where travelers can</p> <p>9 wash their hands; right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Are there any pillows in the cell?</p> <p>12 <b>A. No.</b></p> <p>13 Q. If a traveler asked for a pillow, would they get one?</p> <p>14 <b>A. Doubtful.</b></p> <p>15 Q. Are there any blankets in the cell?</p> <p>16 <b>A. No.</b></p> <p>17 Q. If a traveler asked for a blanket would they get one?</p> <p>18 <b>A. I doubt it.</b></p> <p>19 Q. And why do you doubt it?</p> <p>20 <b>A. Because we don't want them to have anything they could</b></p> <p>21 <b>injure themselves with.</b></p> <p>22 Q. You mentioned earlier that jackets and outerwear are</p> <p>23 usually taken away from a traveler before they're</p> <p>24 placed in a holding cell?</p> <p>25 <b>A. Yes.</b></p>

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11 (41 to 44)

41	<p>1 Q. If they ask for their jacket back, would they get it?</p> <p>2 <b>A. No.</b></p> <p>3 Q. Do travelers have access to any electronic devices of</p> <p>4 theirs of any sort while they're in the cell?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Are travelers who are detained in a holding cell</p> <p>7 provided any opportunity to contact their family?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Are travelers detained in a holding cell provided any</p> <p>10 opportunity to contact a lawyer?</p> <p>11 <b>A. No.</b></p> <p>12 (Whereupon Vanessa Mays entered the</p> <p>13 deposition room.)</p> <p>14 BY MS. HOMER:</p> <p>15 Q. To your knowledge, is there a required temperature</p> <p>16 that holding cells are required to be maintained at?</p> <p>17 <b>A. I believe it's between 65 degrees and 75 but I'm not</b></p> <p>18 <b>sure.</b></p> <p>19 Q. Do you know who is responsible for ensuring that</p> <p>20 holding cells are actually within that range?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Have you personally ever checked the temperature of a</p> <p>23 holding cell while an individual was detained in it?</p> <p>24 <b>A. No.</b></p> <p>25 Q. Is there any system for logging the actual temperature</p>	43	<p>1 cells are?</p> <p>2 <b>A. I don't know.</b></p> <p>3 Q. Have you ever personally written down the current</p> <p>4 temperature of a holding cell while an individual was</p> <p>5 in it?</p> <p>6 <b>A. The current temperature, no. I've --</b></p> <p>7 Q. Okay. And you paused there so have you ever written</p> <p>8 down a temperature related to a holding cell?</p> <p>9 <b>A. I've selected a range.</b></p> <p>10 Q. What do you mean by that?</p> <p>11 <b>A. The -- It -- It -- On the form, is the temperature</b></p> <p>12 <b>between 65 and 75. Again I believe 75 is the top but</b></p> <p>13 <b>I'm not sure.</b></p> <p>14 Q. What form are you talking about?</p> <p>15 <b>A. On the I-216.</b></p> <p>16 Q. Do you have any idea what that stands for?</p> <p>17 <b>A. Immigration Form 216.</b></p> <p>18 Q. And the Immigration Form 216 has a place to record the</p> <p>19 temperature of holding cell in it?</p> <p>20 <b>A. Yes.</b></p> <p>21 MS. HOMER: Can we take a break for a</p> <p>22 second?</p> <p>23 MR. CARTY: Sure.</p> <p>24 (Off the record at 11:09 a.m.)</p> <p>25 (Whereupon Vanessa Mays exited the</p>
42	<p>1 of holding cells while individuals are detained in it?</p> <p>2 <b>A. We have a system for logging the temperature of the</b></p> <p>3 <b>cell.</b></p> <p>4 Q. How does that system work?</p> <p>5 <b>A. It's basically you check whether the temperature is</b></p> <p>6 <b>between 65 and I think 75.</b></p> <p>7 Q. And how does CBP -- how do CBP officers check the</p> <p>8 actual temperature of the cell?</p> <p>9 <b>A. The actual temperature of the cell would be based on</b></p> <p>10 <b>-- If it's cold in the cell, it's cold in the</b></p> <p>11 <b>interview rooms, so that would be basically how we</b></p> <p>12 <b>determine.</b></p> <p>13 Q. Okay. So are CBP officers required to check the</p> <p>14 temperature during their like 15 minute check-ins?</p> <p>15 <b>A. No. We check on the traveler to make sure he's okay.</b></p> <p>16 Q. Okay. So under what circumstances would a CBP officer</p> <p>17 be looking at the temperature of a cell?</p> <p>18 <b>A. I couldn't tell you.</b></p> <p>19 Q. And you mentioned earlier that you thought the</p> <p>20 upstairs thermostat controlled the temperature in the</p> <p>21 downstairs cells; is that right?</p> <p>22 <b>A. That's what I've been told.</b></p> <p>23 Q. Okay. So is there any like routine or daily process</p> <p>24 by which a CBP officer goes and checks the upstairs</p> <p>25 thermostat to determine what the temperature in the</p>	44	<p>1 deposition room.)</p> <p>2 (Back on the record at 11:18 a.m.)</p> <p>3 BY MS. HOMER:</p> <p>4 Q. So before we took a break, we were talking about a</p> <p>5 Form I-216; correct?</p> <p>6 <b>A. Correct.</b></p> <p>7 Q. And is that the form Record of Persons and Property</p> <p>8 Transferred?</p> <p>9 <b>A. No.</b></p> <p>10 Q. No? Okay.</p> <p>11 <b>A. No.</b></p> <p>12 Q. Okay. Is that form only used in conjunction with</p> <p>13 aliens that are held by CBP?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Can you describe the form for me?</p> <p>16 <b>A. It's an electronic form.</b></p> <p>17 Q. It's an electronic form?</p> <p>18 <b>A. (Indicating in the affirmative).</b></p> <p>19 Q. And what other information does it ask for?</p> <p>20 <b>A. Is water available, whether the person was admitted or</b></p> <p>21 <b>turned over to another agency or refused entry.</b></p> <p>22 MS. HOMER: I'd just like to know for the</p> <p>23 record -- I don't think I've seen this form, so if I</p> <p>24 could ask either defendants' counsel or CBP counsel to</p> <p>25 produce it, I would appreciate that. Okay.</p>

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12 (45 to 48)

45	<p>1 BY MS. HOMER:</p> <p>2 Q. Are there any other forms used with respect to</p> <p>3 individuals in holding cells that would record the</p> <p>4 temperature of the cell?</p> <p>5 <b>A. No.</b></p> <p>6 Q. On this I-216 form is the temperature only recorded</p> <p>7 once or is it updated regularly?</p> <p>8 <b>A. Once.</b></p> <p>9 Q. At what point is it recorded?</p> <p>10 <b>A. When we initiate the form.</b></p> <p>11 Q. Okay. And do you initiate the form when an individual</p> <p>12 is first placed in the cell?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. So you would not record the temperature when the</p> <p>15 individual is ultimately released from the cell later?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Aside from the -- Actually, let me back up. Is the</p> <p>18 I-216 form always used with any individual placed in a</p> <p>19 holding cell?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Was it in use in 2015?</p> <p>22 <b>A. No.</b></p> <p>23 Q. When was it first introduced?</p> <p>24 <b>A. I believe that was 2017.</b></p> <p>25 Q. Do you know why it was introduced?</p>	47	<p>1 <b>A. No.</b></p> <p>2 Q. Have you ever stepped into a cell when you were</p> <p>3 detaining someone in it and kind of felt to yourself,</p> <p>4 "Huh, it feels a little cold in here"?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Have you ever stepped into a cell where you're</p> <p>7 detaining someone and thought, "Huh, it feels a little</p> <p>8 hot in here"?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Have you ever heard any complaints that the conditions</p> <p>11 a traveler was being held in in one of the Ambassador</p> <p>12 Bridge holding cells were unsafe?</p> <p>13 <b>A. No.</b></p> <p>14 MS. HOMER: Let me mark Exhibit 2.</p> <p>15 MARKED FOR IDENTIFICATION:</p> <p>16 DEPOSITION EXHIBIT 2</p> <p>17 11:23 a.m.</p> <p>18 BY MS. HOMER:</p> <p>19 Q. Mr. Rocky, are you familiar with this document?</p> <p>20 <b>A. I just received it. I haven't looked through it.</b></p> <p>21 Q. Yes. Please take a moment to read through it.</p> <p>22 <b>A. I'm generally familiar with this, yes.</b></p> <p>23 Q. How would you describe this document?</p> <p>24 <b>A. Our standard operating procedure for dealing with</b></p> <p>25 <b>people that were detained.</b></p>
46	<p>1 <b>A. No.</b></p> <p>2 Q. Prior to 2017, in your time at the Ambassador Bridge,</p> <p>3 are you aware of any form that required CBP officers</p> <p>4 to record the temperatures in a holding cell?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Are you aware of any mechanism for logging the</p> <p>7 temperature of a holding cell that CBP officers were</p> <p>8 using at all?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Did you ever receive any complaints that a holding</p> <p>11 cell was too hot?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Did you ever receive any complaints that a holding</p> <p>14 cell was too cold?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Since 2017 has there ever been a time that you checked</p> <p>17 the temperature of a holding cell and concluded that</p> <p>18 it fell outside the guidelines set by CBP?</p> <p>19 <b>A. No.</b></p> <p>20 Q. Have you ever refused to put an individual in a</p> <p>21 holding cell because the cell was not at an</p> <p>22 appropriate temperature?</p> <p>23 <b>A. No.</b></p> <p>24 Q. Have you put an individual in a cell knowing it was</p> <p>25 not and appropriate temperature?</p>	48	<p>1 Q. And was this the standard operating procedure in 2015?</p> <p>2 To the best of your knowledge?</p> <p>3 <b>A. To the best of my knowledge.</b></p> <p>4 Q. Can you turn to the last two or three pages of where</p> <p>5 it says Personal Detention Log Sheet?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Do you recognize that form?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Is this form different than the I-216 you were talking</p> <p>10 about earlier?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Does the Personal Detention Log Sheet require an</p> <p>13 officer to record the temperature of a detention cell?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Is this form still in use at the Ambassador Bridge</p> <p>16 today?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Has this form been replaced by the I-216 you</p> <p>19 mentioned?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Yes. I mean, are there other forms? Let me just ask</p> <p>22 this better. What form is used right now for</p> <p>23 individuals in detention cells at the Ambassador</p> <p>24 Bridge?</p> <p>25 <b>A. It's an electronic form.</b></p>



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13 (49 to 52)

49	<p>1 Q. So how recently did the Ambassador Bridge start using</p> <p>2 an electronic form for individuals in detention cells?</p> <p>3 <b>A. In the past couple of years.</b></p> <p>4 Q. In 2015 was CBP using paper forms for individuals in</p> <p>5 detention cells?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And this was the paper form they were using?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Where -- Okay. You personally have escorted</p> <p>10 individuals to a detention cell and secured them in</p> <p>11 that cell; correct?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. In the process of securing someone in a detention</p> <p>14 cell, where and how does this form come into play?</p> <p>15 MR. ANCHILL: Objection, form, compound.</p> <p>16 BY MS. HOMER:</p> <p>17 Q. You can answer.</p> <p>18 <b>A. This form would be used when we place somebody in</b></p> <p>19 <b>detention immediately upon, after we completed a pat-</b></p> <p>20 <b>down on the individual and closed the door.</b></p> <p>21 Q. What does a pat-down entail?</p> <p>22 <b>A. Checking to make sure they have no contraband items on</b></p> <p>23 <b>themselves.</b></p> <p>24 Q. Okay. And is the pat-down also where like the excess</p> <p>25 clothing and jewelry is removed?</p>	51	<p>1 <b>A. Yes.</b></p> <p>2 Q. Okay. And then they each correspond like 1 to 1, 2 to</p> <p>3 2, 3 to 3; right?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. So the first check-in, the officer would fill in both</p> <p>6 1 boxes?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And one of those boxes, would he fill it in with like</p> <p>9 a description of what he saw?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And then the other 1 box on the right, he would fill</p> <p>12 in the time and his initials?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Okay. And then the next officer would come in and</p> <p>15 fill in the 2 box with the same sort of information?</p> <p>16 <b>A. Correct.</b></p> <p>17 Q. Once an individual was released from the holding cell,</p> <p>18 what happens to the paper form?</p> <p>19 <b>A. The paper form should be attached to whatever</b></p> <p>20 <b>paperwork was generated for the reason he was in the</b></p> <p>21 <b>cell.</b></p> <p>22 Q. Okay. And with that bundle of paperwork, where does</p> <p>23 it go?</p> <p>24 <b>A. That would get filed in our office.</b></p> <p>25 Q. In the supervisor's office?</p>
50	<p>1 <b>A. Yes. We would remove down to their shirt. Like we</b></p> <p>2 <b>would take off a jacket or a sweater that they had</b></p> <p>3 <b>over a shirt.</b></p> <p>4 Q. Okay. And is that part of the pat-down or is there a</p> <p>5 different word used?</p> <p>6 <b>A. That's part of.</b></p> <p>7 Q. Okay. Where would a CBP officer pick up a physical</p> <p>8 copy of this form when they're detaining an</p> <p>9 individual?</p> <p>10 <b>A. They were kept on clipboards by the detention cells.</b></p> <p>11 Q. Okay. So on -- outside the door of the detention</p> <p>12 cell?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Where there's just blank copies of this form?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And so when an individual was placed in it, would the</p> <p>17 CBP officer then start filling it out?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Would the CBP officer update additional information on</p> <p>20 this form every time a check-in happened?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And where would the time of each check-in be recorded?</p> <p>23 <b>A. It would be on the boxes on the right.</b></p> <p>24 Q. Okay. So the first check-in -- I should back up. So</p> <p>25 there are two sets of boxes with numbers?</p>	52	<p>1 <b>A. It is kept in one of the -- The filing system was kept</b></p> <p>2 <b>in one of the interview rooms.</b></p> <p>3 Q. So there was a filing system in an interview room with</p> <p>4 all of the detention paperwork packets for everyone</p> <p>5 detained at the Ambassador Bridge?</p> <p>6 <b>A. Correct.</b></p> <p>7 Q. Okay. And to your knowledge were those paper files</p> <p>8 ever scanned in and digitized?</p> <p>9 <b>A. After one month they were moved to another facility.</b></p> <p>10 <b>I don't know what happened after that.</b></p> <p>11 Q. Do you know what facility they were moved to?</p> <p>12 <b>A. No.</b></p> <p>13 Q. And do you know if before the paperwork was moved to a</p> <p>14 different facility they would be scanned at the</p> <p>15 Ambassador Bridge or otherwise digitized?</p> <p>16 <b>A. No, not to my knowledge.</b></p> <p>17 Q. Have you ever seen a digital copy of a complete</p> <p>18 detention paperwork file?</p> <p>19 <b>A. No.</b></p> <p>20 Q. And then you stated that the paperwork files were only</p> <p>21 held at the Ambassador Bridge for a month at a time?</p> <p>22 <b>A. Month, maybe two months at the tops.</b></p> <p>23 Q. Okay. So they don't have, for example, every record</p> <p>24 of every detention going back five years on site at</p> <p>25 the Ambassador Bridge?</p>



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14 (53 to 56)

53	<p>1 <b>A. Correct.</b></p> <p>2 Q. Okay. And you said that officers are supposed to</p> <p>3 check in on the cells every 15 minutes; correct?</p> <p>4 <b>A. Correct.</b></p> <p>5 Q. Have you -- And you have been the officer performing</p> <p>6 those 15 minute check-ins?</p> <p>7 <b>A. I have.</b></p> <p>8 Q. Okay. Have you ever gone to do your 15 minute</p> <p>9 check-in and looked at this form and realized it had</p> <p>10 been, let's say, 30 minutes or more since the last</p> <p>11 check-in?</p> <p>12 <b>A. Not that I've ever noticed.</b></p> <p>13 Q. Have you ever been aware of complaints about officers</p> <p>14 not performing the required check-ins?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Have you ever seen a form of a detention log sheet</p> <p>17 where there's a long gap, like let's say an hour or</p> <p>18 more between officers checking in?</p> <p>19 <b>A. Not that I recall.</b></p> <p>20 Q. Are you aware of any discipline against any officer</p> <p>21 for failing to conduct and log one of those 15 minute</p> <p>22 check-ins?</p> <p>23 <b>A. No.</b></p> <p>24 Q. You were familiar with what TECS records are; right?</p> <p>25 <b>A. Yes.</b></p>	55	<p>1 Q. Have you ever heard CBP border facilities described as</p> <p>2 an icebox?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Have you ever heard CBP border facilities described as</p> <p>5 a freezer?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Have you ever heard of any investigations into the</p> <p>8 temperatures at which CBP maintains its facilities?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Have you ever heard of any investigations into the</p> <p>11 temperature control systems at the Ambassador Bridge?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Do you have any social media accounts?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Do you have a Facebook account?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Do you have a Twitter account?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Do you have an Instagram account?</p> <p>20 <b>A. Just because I have a Facebook account.</b></p> <p>21 Q. Okay. Any other major social media?</p> <p>22 <b>A. No.</b></p> <p>23 Q. Okay. Are you aware of a Facebook group called I'm</p> <p>24 10-15?</p> <p>25 <b>A. Just what I've read in the news.</b></p>
54	<p>1 Q. Do you know whether the information contained on these</p> <p>2 detention logs is ever incorporated into a TECS</p> <p>3 record?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Have you ever seen that happen?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Have you personally ever lost a detention log sheet?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Have you ever been made aware that an individual's</p> <p>10 detention log sheet has gone missing?</p> <p>11 <b>A. No.</b></p> <p>12 Q. Would it concern you if a detention log sheet had gone</p> <p>13 missing?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Why?</p> <p>16 <b>A. Well, it's a record of a person in our custody.</b></p> <p>17 Q. And it's important to maintain accurate records?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Have you ever heard the Spanish phrase hialera,</p> <p>20 spelled h-i-a-l-e-r-a?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Okay. You've never heard it in any context?</p> <p>23 <b>A. No.</b></p> <p>24 Q. Have you ever used it to describe CBP facilities?</p> <p>25 <b>A. No.</b></p>	56	<p>1 Q. Have you ever been a member of the Facebook group</p> <p>2 called I'm 10-15?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Have you ever been a member of any Facebook group</p> <p>5 where a large number of CBP officers are also members</p> <p>6 of that group?</p> <p>7 <b>A. No.</b></p> <p>8 Q. Are you aware if any of your co-workers have been a</p> <p>9 member of the Facebook group I'm 10-15?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Have you ever been party to any conversation among</p> <p>12 your co-workers about CBP facilities having very cold</p> <p>13 temperatures?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Is there a -- Back up. Is there any sort of medical</p> <p>16 professional on site at the Ambassador Bridge?</p> <p>17 <b>A. We have EMTs that are regularly rotated through.</b></p> <p>18 Q. Okay. And are those private EMTs or CBP EMTs?</p> <p>19 <b>A. CBP EMTs.</b></p> <p>20 Q. And how long has it been the case that CBP has had</p> <p>21 EMTs that rotate through the facility?</p> <p>22 <b>A. Three, maybe four years.</b></p> <p>23 Q. Okay. Did CBP have EMTs rotating through the</p> <p>24 Ambassador Bridge in 2015?</p> <p>25 <b>A. No.</b></p>

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15 (57 to 60)

57	<p>1 Q. Do you know why CBP now has EMTs on site?</p> <p>2 <b>A. I believe it's a recent program that CBP started but I</b></p> <p>3 <b>couldn't say for sure.</b></p> <p>4 Q. You had no input in the decision to start that</p> <p>5 program?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Do you think that having EMTs rotating on site has</p> <p>8 improved CBP's medical responses for travelers?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Why?</p> <p>11 <b>A. Don't have to wait on an EMS to show if there's a</b></p> <p>12 <b>medical problem.</b></p> <p>13 Q. Okay. And prior to the CBP system of having EMTs on</p> <p>14 site, can you describe what the process was for</p> <p>15 procuring medical help for travelers?</p> <p>16 <b>A. We would call 911 I believe.</b></p> <p>17 Q. And what happened when you called 911? Would there be</p> <p>18 a delay?</p> <p>19 <b>A. I've never called 911 myself.</b></p> <p>20 Q. So you personnel have ever called 911 in your</p> <p>21 responsibilities as a CBP officer?</p> <p>22 <b>A. That's correct.</b></p> <p>23 Q. Have you ever been part of a group of CBP officers</p> <p>24 where one of the officers called 911 related to a</p> <p>25 medical emergency?</p>	59	<p>1 <b>A. That is correct.</b></p> <p>2 Q. Before Elhady were you personally involved in any</p> <p>3 medical situations with travelers in CBP?</p> <p>4 <b>A. Not that I can recollect.</b></p> <p>5 Q. Is it CBP's practice to always call either their on-</p> <p>6 site EMT or 911 if a traveler requests medical</p> <p>7 assistance?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Does -- Okay. We're going to talk about Elhady now.</p> <p>10 MS. HOMER: Can you mark Exhibit 3?</p> <p>11 MARKED FOR IDENTIFICATION:</p> <p>12 DEPOSITION EXHIBIT 3</p> <p>13 11:41 a.m.</p> <p>14 BY MS. HOMER:</p> <p>15 Q. Okay. Mr. Rocky, do you recognize this picture?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Do you recognize the face of the person in this</p> <p>18 picture?</p> <p>19 <b>A. No.</b></p> <p>20 Q. Do you have any memory of any interactions with the</p> <p>21 individual in this picture?</p> <p>22 <b>A. No.</b></p> <p>23 Q. Okay. Set it aside. Do you know who Anas Elhady is?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. And how do you know Anas Elhady?</p>
58	<p>1 <b>A. No.</b></p> <p>2 Q. Have you heard complaints prior to CBP having EMTs on</p> <p>3 site about their response times to 911 calls?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Is there a protocol about how CBP officers are to</p> <p>6 respond to medical complaints by travelers?</p> <p>7 <b>A. I don't know if there is a formal protocol.</b></p> <p>8 Q. Okay. Have you ever encountered a situation where a</p> <p>9 traveler was requesting medical assistance?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And what have you done?</p> <p>12 <b>A. I went to the supervisor with the information.</b></p> <p>13 Q. Approximately how many times has that happened? Is it</p> <p>14 like a once a month thing? A once a year thing?</p> <p>15 <b>A. Once every three, four years maybe.</b></p> <p>16 Q. Okay.</p> <p>17 <b>A. For myself personally.</b></p> <p>18 Q. What situations do you remember where a traveler has</p> <p>19 requested or needed medical assistance?</p> <p>20 <b>A. The last time that I'm aware of is actually with</b></p> <p>21 <b>Elhady.</b></p> <p>22 Q. So since Elhady in 2015, you are not aware of -- Let</p> <p>23 me scratch that. Since Elhady in 2015, you have not</p> <p>24 been personally involved in a situation where a</p> <p>25 traveler requested medical attention from CBP?</p>	60	<p>1 <b>A. I encountered him in 2015 as an officer.</b></p> <p>2 Q. And describe to me what you remember at a high level</p> <p>3 about that encounter?</p> <p>4 <b>A. I encountered him while doing a cell check. He</b></p> <p>5 <b>requested medical assistance and we had him taken to</b></p> <p>6 <b>the hospital.</b></p> <p>7 Q. Okay. So a cell check. Is this what we were talking</p> <p>8 about earlier, where CBP officers check in every 15</p> <p>9 minutes?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Do you remember seeing his detention log during that</p> <p>12 cell check?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And do you remember anything about that detention log?</p> <p>15 Was it filled out?</p> <p>16 <b>A. I don't remember details. I remember that I would</b></p> <p>17 <b>have put my name down on there and put the time and</b></p> <p>18 <b>requested medical assistance.</b></p> <p>19 Q. But you don't remember any of the other specific</p> <p>20 times --</p> <p>21 <b>A. No.</b></p> <p>22 Q. -- on the log?</p> <p>23 <b>A. No.</b></p> <p>24 Q. Or any of the other officers who may have been on the</p> <p>25 log?</p>

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16 (61 to 64)

<p style="text-align: right;">61</p> <p>1 A. No.</p> <p>2 Q. You testified earlier that you usually came on shift</p> <p>3 around 6:00 a.m.?</p> <p>4 A. Yes.</p> <p>5 Q. Do you remember when in your shift you performed the</p> <p>6 cell check on Anas Elhady?</p> <p>7 A. It would have been right at the beginning of my shift.</p> <p>8 Q. And when you say right at the beginning, like within</p> <p>9 the first 15 minutes?</p> <p>10 A. Within the first 15 minutes.</p> <p>11 Q. What do you remember from the moment you performed the</p> <p>12 check?</p> <p>13 A. Right when I performed the check?</p> <p>14 Q. Yeah. Like did you look in through the window? Did</p> <p>15 you open the door?</p> <p>16 A. I looked in through the window. "How are you doing?"</p> <p>17 He said his back was hurting, and I asked him if he</p> <p>18 needed to see a doctor, and he said yes.</p> <p>19 Q. Did he say anything other than his back hurting that</p> <p>20 you remember?</p> <p>21 A. No.</p> <p>22 Q. Did you talk to him through the window?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Did you open the door?</p> <p>25 A. No.</p>	<p style="text-align: right;">63</p> <p>1 A. At that point I did not.</p> <p>2 Q. Did you later come to learn what other CBP officers</p> <p>3 had been working on with respect to Mr. Elhady?</p> <p>4 A. Yes.</p> <p>5 Q. What had they been working on with respect to Mr.</p> <p>6 Elhady?</p> <p>7 MR. GOULDING: The answer to that question</p> <p>8 may be privileged so I'm going to direct you -- I'm</p> <p>9 going to assert the privilege and I'm going to direct</p> <p>10 you not to answer that or at least to -- We can step</p> <p>11 outside and I can preview the answer and advise you if</p> <p>12 there's any part that you can answer.</p> <p>13 MS. HOMER: Let's take a quick break for</p> <p>14 you to do that.</p> <p>15 MR. GOULDING: Okay.</p> <p>16 (Off the record at 11:47 a.m.)</p> <p>17 (Back on the record at 11:48 a.m.)</p> <p>18 MR. ANCHILL: We're back on the record. We</p> <p>19 have previewed the witness's answer and it's</p> <p>20 privileged.</p> <p>21 MR. GOULDING: That's correct. The agency</p> <p>22 is asserting the law enforcement privilege and has</p> <p>23 directed the witness not to answer.</p> <p>24 MS. HOMER: Okay.</p> <p>25 BY MS. HOMER:</p>
<p style="text-align: right;">62</p> <p>1 Q. So after Mr. Elhady said he needed to see a doctor,</p> <p>2 what did you do?</p> <p>3 A. I want to the supervisors and informed them.</p> <p>4 Q. Who were the supervisors at the time?</p> <p>5 A. I couldn't tell you who the supervisor was on shift at</p> <p>6 that point.</p> <p>7 Q. And how did the supervisor respond to you saying that</p> <p>8 Mr. Elhady needed medical attention?</p> <p>9 A. They said that we can get him medical attention but</p> <p>10 let him know that he'll probably be out of here in ten</p> <p>11 minutes, ten, 15 minutes.</p> <p>12 Q. And what did they mean by out of here?</p> <p>13 A. That his detention would be over and he would be</p> <p>14 released.</p> <p>15 Q. Do you have any idea why his detention was going to be</p> <p>16 over in ten to 15 minutes?</p> <p>17 A. Specifically, no.</p> <p>18 Q. Do you have any like general understanding as to why</p> <p>19 his detention would be over in ten to 15 minutes?</p> <p>20 A. Probably because it was getting closed out.</p> <p>21 Q. And do you know why his detention would be getting</p> <p>22 closed out?</p> <p>23 A. Because they were done with whatever they were working</p> <p>24 on.</p> <p>25 Q. Do you know what they were working on?</p>	<p style="text-align: right;">64</p> <p>1 Q. And are you going to follow your counsel's instruction</p> <p>2 and not answer?</p> <p>3 A. (Indicating in the affirmative).</p> <p>4 Q. Can you say yes verbally?</p> <p>5 A. Yes. Sorry.</p> <p>6 Q. Thank you. After you told the CBP supervisor on duty</p> <p>7 that Mr. Elhady needed medical attention, what</p> <p>8 happened?</p> <p>9 A. The supervisor told me that we can get him to the</p> <p>10 hospital but that he would be released in probably</p> <p>11 ten, 15 minutes.</p> <p>12 Q. Did you relay that message, that his release was</p> <p>13 imminent, to Mr. Elhady?</p> <p>14 A. Yes, I did.</p> <p>15 Q. And how did Mr. Elhady respond?</p> <p>16 A. He said he wanted to go to the hospital.</p> <p>17 Q. Okay. And what happened next?</p> <p>18 A. I went back down, told the supervisor. They called</p> <p>19 EMS.</p> <p>20 Q. After EMS was called, did you then go back to Mr.</p> <p>21 Elhady?</p> <p>22 A. I'm not sure.</p> <p>23 Q. Okay. Let me start over. After EMS was called --</p> <p>24 Well, let me back up. Do you remember who placed the</p> <p>25 phone call to EMS?</p>

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17 (65 to 68)

65	<p>1 <b>A. It would have been a supervisor that was on shift.</b></p> <p>2 Q. What did you do after the phone call was placed to</p> <p>3 EMS?</p> <p>4 <b>A. To the best of my recollection, I went down there and</b></p> <p>5 <b>informed him that EMS was on the way.</b></p> <p>6 Q. Did Mr. Elhady remain in the holding cell while EMS</p> <p>7 was on its way?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. At what point was Mr. Elhady removed from the holding</p> <p>10 cell?</p> <p>11 <b>A. When EMS arrived on site, they would have gone back to</b></p> <p>12 <b>the cell. I believe at that point I wasn't in the</b></p> <p>13 <b>building to know the exact --</b></p> <p>14 Q. Okay. Did you personally let Mr. Elhady out of the</p> <p>15 holding cell?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Did you personally interact with Mr. Elhady as he was</p> <p>18 leaving the holding cell and being handed over to EMS?</p> <p>19 <b>A. No.</b></p> <p>20 Q. After Mr. Elhady was removed from the holding cell,</p> <p>21 did you have more interactions with Mr. Elhady?</p> <p>22 <b>A. Direct interaction?</b></p> <p>23 Q. I mean, yes.</p> <p>24 <b>A. No.</b></p> <p>25 Q. Okay. Did you accompany Mr. Elhady to the hospital?</p>	67	<p>1 Q. That's spelled K-e-h-r; right?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And what is your understanding as to why one CBP</p> <p>4 officer was in the ambulance and you, another CBP</p> <p>5 officer, were in a separate vehicle?</p> <p>6 <b>A. Mr. Elhady was still under our detention and we had an</b></p> <p>7 <b>officer ride to make sure that he was safe, and I</b></p> <p>8 <b>followed because they have to get back to the port</b></p> <p>9 <b>somehow.</b></p> <p>10 Q. And by they did you mean --</p> <p>11 <b>A. Officer --</b></p> <p>12 Q. -- the officer?</p> <p>13 <b>A. Officer Elhady -- I'm sorry. Officer Kehr and Elhady.</b></p> <p>14 Q. Now, where did you follow them to?</p> <p>15 <b>A. Detroit Receiving Hospital.</b></p> <p>16 Q. Okay. And then did you park outside Detroit Receiving</p> <p>17 Hospital?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Did you go inside the hospital?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Did you interact with Mr. Elhady inside the hospital?</p> <p>22 <b>A. No.</b></p> <p>23 Q. Did you wait in the lobby inside the hospital?</p> <p>24 <b>A. No.</b></p> <p>25 Q. Okay. What did you do inside the hospital?</p>
66	<p>1 <b>A. I followed the ambulance.</b></p> <p>2 Q. Okay. Who assigned you to follow the ambulance?</p> <p>3 <b>A. It would have been whatever supervisor was on at that</b></p> <p>4 <b>point.</b></p> <p>5 Q. Were you in your own vehicle or a CBP vehicle?</p> <p>6 <b>A. I was in a CBP vehicle.</b></p> <p>7 Q. What type of vehicle was it?</p> <p>8 <b>A. It was a transport van.</b></p> <p>9 Q. Was there a specific make and model of the CBP</p> <p>10 transport vans?</p> <p>11 <b>A. I couldn't tell you.</b></p> <p>12 Q. Was anyone else in the vehicle with you?</p> <p>13 <b>A. No.</b></p> <p>14 Q. Were there any CBP officers in the ambulance with Mr.</p> <p>15 Elhady?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Do you remember their names?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. What were their names?</p> <p>20 <b>A. That would have been Officer Kehr.</b></p> <p>21 Q. Okay. So to your knowledge there was one CBP officer</p> <p>22 in the ambulance with Mr. Elhady?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. And that was Officer Kehr?</p> <p>25 <b>A. Correct.</b></p>	68	<p>1 <b>A. They took Mr. Elhady up to a private area. Officer</b></p> <p>2 <b>Kehr and myself, we stayed outside the curtained area</b></p> <p>3 <b>that Mr. Elhady was in.</b></p> <p>4 Q. So Mr. Kehr did not go inside this private area with</p> <p>5 Mr. Elhady either?</p> <p>6 <b>A. I believe --</b></p> <p>7 Q. To your memory?</p> <p>8 <b>A. I believe that when Mr. Elhady was transferred to the</b></p> <p>9 <b>hospital bed, that Officer Kehr went in to unlock</b></p> <p>10 <b>handcuffs and handcuff him to the hospital bed.</b></p> <p>11 Q. Was Mr. Elhady, to your knowledge, handcuffed inside</p> <p>12 the ambulance?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Was Mr. Elhady handcuffed while transferring him from</p> <p>15 the ambulance to inside the hospital?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Was Mr. Elhady handcuffed at all points while in the</p> <p>18 hospital?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Was he handcuffed when he eventually left the hospital</p> <p>21 to return to the Ambassador Bridge?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. Did you personally witness any of the medical</p> <p>24 treatment Mr. Elhady received while at Detroit</p> <p>25 Receiving Hospital?</p>

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18 (69 to 72)

69	<p>1 <b>A. From my angle, I could see a very limited view inside</b></p> <p>2 <b>the curtained area.</b></p> <p>3 Q. Could you hear nurses or doctors talking to Mr.</p> <p>4 Elhady?</p> <p>5 <b>A. I could hear the doctor.</b></p> <p>6 Q. Do you remember which doctor it was?</p> <p>7 <b>A. No.</b></p> <p>8 Q. Do you remember what, like the gist of the</p> <p>9 conversation that the doctor had with Mr. Elhady?</p> <p>10 <b>A. "Push your feet down against my hands. Press your</b></p> <p>11 <b>legs up towards the ceiling against my hands."</b></p> <p>12 Q. Did you hear any of Mr. Elhady's descriptions of his</p> <p>13 medical problems to the doctor?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Did you hear any diagnoses from the doctor to Mr.</p> <p>16 Elhady?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Do you remember approximately how long Mr. Elhady was</p> <p>19 at the hospital?</p> <p>20 <b>A. Not off the top of my head.</b></p> <p>21 Q. Was Mr. Elhady eventually released from the hospital?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. And how did he get back to the Ambassador Bridge?</p> <p>24 <b>A. In our detention van or transport van.</b></p> <p>25 Q. This is the van that you had driven over?</p>	71	<p>1 Q. Then what happened?</p> <p>2 <b>A. To the best of my ability to recall, we pulled up next</b></p> <p>3 <b>to his vehicle and let him know he was free to go.</b></p> <p>4 Q. And how had you become aware that he was free to go?</p> <p>5 <b>A. I think Officer Kehr contacted the port to let them</b></p> <p>6 <b>know we were on the way back.</b></p> <p>7 Q. And then, to your knowledge, the port told Mr. Kehr</p> <p>8 that Mr. Elhady was free to go when he got back?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Did that happen while you were driving with Mr. Elhady</p> <p>11 back to the port?</p> <p>12 <b>A. I don't know if it was before we started up the van or</b></p> <p>13 <b>while we were on the way. I don't recall.</b></p> <p>14 Q. During the transport back from the hospital to the</p> <p>15 port, did you personally have any conversations with</p> <p>16 Mr. Elhady?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Did Mr. Kehr have any conversations with Mr. Elhady?</p> <p>19 <b>A. Not that I can recall.</b></p> <p>20 Q. Do you recall having any conversations with Mr. Elhady</p> <p>21 while you were at the hospital?</p> <p>22 <b>A. No.</b></p> <p>23 Q. Do you have any memory of Mr. Elhady complaining about</p> <p>24 the holding cell itself he had been in?</p> <p>25 <b>A. He may have said something about how hard the wooden</b></p>
70	<p>1 <b>A. Yes.</b></p> <p>2 Q. Is -- is the van like separated? Is there a wall</p> <p>3 between the drivers and the people in the back?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Okay. So you were in the front driving?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Was Mr. Kehr and Mr. Elhady in the back?</p> <p>8 <b>A. Officer Kehr would have been in the front seat with</b></p> <p>9 <b>me.</b></p> <p>10 Q. Okay. Officer Kehr was in the front seat with you</p> <p>11 while you were driving?</p> <p>12 <b>A. Correct.</b></p> <p>13 Q. And then there's a wall?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. That I assume is for the security of the officers?</p> <p>16 <b>A. Right.</b></p> <p>17 Q. And then Mr. Elhady was in the back?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Was Mr. Elhady handcuffed in the back?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Was anyone else with Mr. Elhady in the back?</p> <p>22 <b>A. No.</b></p> <p>23 Q. Then you arrived back at the Ambassador Bridge;</p> <p>24 correct?</p> <p>25 <b>A. Correct.</b></p>	72	<p>1 <b>benches were.</b></p> <p>2 Q. Do you have any memory of Mr. Elhady complaining about</p> <p>3 the cell being cold?</p> <p>4 <b>A. No.</b></p> <p>5 Q. After you and Mr. Kehr let Mr. Elhady go, have you</p> <p>6 ever interacted with Mr. Elhady again --</p> <p>7 <b>A. No.</b></p> <p>8 Q. -- to your knowledge? Do you remember the names of</p> <p>9 any other CBP personnel that you interacted with</p> <p>10 during the course of this interaction with Mr. Elhady?</p> <p>11 <b>A. Do you mean the interaction going to the hospital?</b></p> <p>12 Q. Yeah. That was a bad question. Let me start over.</p> <p>13 Okay. So do you remember the names of any of the</p> <p>14 supervisors you were communicating with about Mr.</p> <p>15 Elhady on the day in question?</p> <p>16 <b>A. At this time, no.</b></p> <p>17 Q. Okay. Did you communicate with any government</p> <p>18 officials that did not work for CBP about Mr. Elhady</p> <p>19 on this day?</p> <p>20 MR. GOULDING: I'm going to -- I'm sorry.</p> <p>21 Can you rephrase -- can you repeat it or --</p> <p>22 MS. HOMER: Yeah.</p> <p>23 BY MS. HOMER:</p> <p>24 Q. Did you communicate with any government officials who</p> <p>25 were not CBP employees about Mr. Elhady on the day of</p>



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19 (73 to 76)

73	<p>1 this medical incident with Mr. Elhady?</p> <p>2 MR. GOULDING: Objection, scope, law</p> <p>3 enforcement privilege and I'll direct the witness not</p> <p>4 to answer.</p> <p>5 BY MS. HOMER:</p> <p>6 Q. You talked about earlier that you were familiar with</p> <p>7 the TECS system?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Does TECS contain records of primary inspections?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Does TECS contain records from secondary inspections?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Have you previously reviewed any of the secondary</p> <p>14 inspection TECS records related to Anas Elhady?</p> <p>15 <b>A. Just the one that was forwarded to me.</b></p> <p>16 MS. HOMER: Can we mark Exhibit 4?</p> <p>17 MARKED FOR IDENTIFICATION:</p> <p>18 DEPOSITION EXHIBIT 4</p> <p>19 12:01 p.m.</p> <p>20 BY MS. HOMER:</p> <p>21 Q. And then take a moment to flip through that. Have you</p> <p>22 had a moment to review this?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Do you recognize this document?</p> <p>25 <b>A. I'm sorry?</b></p>	75	<p>1 Q. Do you have any knowledge about what any of the</p> <p>2 information that is behind the black bars might be?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Reviewing this record, does it jigger any fresh</p> <p>5 memories in you about what happened on April 11th,</p> <p>6 2015 with respect to Mr. Elhady?</p> <p>7 <b>A. Other than apparently I was the one that called back</b></p> <p>8 <b>to the Ambassador Bridge from the hospital, no.</b></p> <p>9 Q. So if you turn to -- it's the third physical piece of</p> <p>10 paper and in the bottom right corner it says CBP-0241.</p> <p>11 Do you see that page?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Okay. So you see at the top where it says that the</p> <p>14 Referred Time was 1:43 Eastern Daylight Time?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. See that? Would you have been on duty at that time?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Okay. To the best of your understanding, when would</p> <p>19 you have reported for duty on this day?</p> <p>20 <b>A. 6:00 a.m.</b></p> <p>21 Q. Now, if you flip four more pages back to where it says</p> <p>22 CBP-0244 in the bottom right corner.</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Do you see that page? Okay. I'm looking about</p> <p>25 halfway down the material that's printed on the page</p>
74	<p>1 Q. Do you recognize this document?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. What is it?</p> <p>4 <b>A. This is a TECS printout.</b></p> <p>5 Q. And who is the TECS printout of, or about?</p> <p>6 <b>A. Mr. Elhady.</b></p> <p>7 Q. And have you reviewed this TECS printout before?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. You see that throughout this TECS printout there are</p> <p>10 black bars?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. What do you understand those black bars to be?</p> <p>13 <b>A. Redacted information.</b></p> <p>14 Q. Have you ever seen a version of Anas Elhady's TECS</p> <p>15 report that did not have this information?</p> <p>16 <b>A. I don't remember.</b></p> <p>17 Q. Do you have any knowledge about -- for example, on</p> <p>18 page 1, where it says Reason for Search and then it's</p> <p>19 redacted below that, do you have any knowledge about</p> <p>20 what that information on the Reason for Search might</p> <p>21 be?</p> <p>22 MR. GOULDING: I'll direct the witness he's</p> <p>23 permitted to answer that only yes or no.</p> <p>24 THE WITNESS: No.</p> <p>25 BY MS. HOMER:</p>	76	<p>1 right beneath the biggest black box where it says.</p> <p>2 "Elhady complained of back pain, coldness and</p> <p>3 requested Emergency Medical Services to be called."</p> <p>4 Do you see that?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Does that refresh your recollection that Elhady was</p> <p>7 also complaining of coldness?</p> <p>8 <b>A. No.</b></p> <p>9 Q. You have no memory of Elhady complaining of coldness?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Did you write that sentence?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Is there any portion of this TECS record that was like</p> <p>14 physically written by you?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Do you know who would have written up this report?</p> <p>17 <b>A. I believe it would have been Officer Bradley.</b></p> <p>18 Q. And what is the basis for that belief?</p> <p>19 <b>A. He is named on the front of the form, Created by</b></p> <p>20 <b>Officer.</b></p> <p>21 Q. And so based on your understanding of TECS records,</p> <p>22 all of the like written memoranda contained within</p> <p>23 this report was written by Officer Bradley?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Okay. So the next line underneath where Elhady was</p>



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20 (77 to 80)

77	<p>1 complaining -- we're back on CBP-0244 -- it says,</p> <p>2 "Watch Commander notified of Elhady's complaint." Do</p> <p>3 you see that?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Were you the individual who notified the watch</p> <p>6 commander?</p> <p>7 <b>A. No.</b></p> <p>8 Q. Do you know who was the individual who notified the</p> <p>9 watch commander?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Do you know who the watch commander was at the time?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Where in the CBP hierarchy does a watch commander</p> <p>14 fall?</p> <p>15 <b>A. In between a chief and an assistant port director I</b></p> <p>16 <b>believe.</b></p> <p>17 Q. Okay. So you would have reported to a supervisor?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Would -- Is the name of the supervisor you reported to</p> <p>20 anywhere in this document?</p> <p>21 <b>A. I don't remember which supervisor I reported to so --</b></p> <p>22 Q. Okay. But -- So there's a couple of supervisors that</p> <p>23 I see that are listed so one of them is Tonya Lapsley.</p> <p>24 But you don't remember if that was the supervisor you</p> <p>25 reported Mr. Elhady's complaint to?</p>	79	<p>1 So the next sentence after the watch commander says,</p> <p>2 "EMS called to respond to Detroit Ambassador Bridge."</p> <p>3 Do you see that?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And then, as we discussed earlier, you did not</p> <p>6 personally make the phone call to EMS; correct?</p> <p>7 <b>A. Correct.</b></p> <p>8 Q. Do you know who did?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Right beneath that it says, "Hart Medical EMS arrived</p> <p>11 at AMB." Do you see that?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And Hart Medical, they're an ambulance company?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Have you had any interactions with them besides this</p> <p>16 day?</p> <p>17 <b>A. No.</b></p> <p>18 Q. And then they arrived at AMB. Does that mean</p> <p>19 Ambassador Bridge?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Okay. And then it says they arrived at -- sorry --</p> <p>22 Hart Medical arrived, en route to Detroit Receiving</p> <p>23 Hospital. That's what you said earlier, is the</p> <p>24 hospital Mr. Elhady was sent to was Detroit Receiving?</p> <p>25 <b>A. Yes.</b></p>
78	<p>1 <b>A. No.</b></p> <p>2 Q. Okay. If you flip -- Well, actually let me back up.</p> <p>3 So, to your knowledge, would a supervisor have then</p> <p>4 reported to the watch commander?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Okay. And if you flip back to the second page of this</p> <p>7 document where it says CBP-0240 in the bottom corner,</p> <p>8 the last full paragraph states, "SCBPO Lapsley was</p> <p>9 notified and assigned CBPO Bradley and CBPO Ferguson,"</p> <p>10 and then some redactions, and then it says, "Watch</p> <p>11 Commander Iverson was advised." Do you see that?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Does that inform you that the watch commander on duty</p> <p>14 was Iverson?</p> <p>15 <b>A. I don't know if Iverson was the watch commander when I</b></p> <p>16 <b>came on duty.</b></p> <p>17 Q. So the watch commander could have also shifted at 6:00</p> <p>18 a.m.?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Okay. But this informs you that Watch Commander</p> <p>21 Iverson was on duty at the beginning of Elhady's</p> <p>22 detention around 1:45 in the morning?</p> <p>23 <b>A. According to this document.</b></p> <p>24 Q. Okay. But you weren't there. Okay. So we're going</p> <p>25 back to CBP-0244, about halfway through the document.</p>	80	<p>1 Q. Then it says, "CBPO Kehr and CBPO Rocky as escorts at</p> <p>2 0625 hours." Do you see that?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. So 0625 would be approximately 25 minutes after you</p> <p>5 got on shift?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And so this matches your recollection that you had</p> <p>8 checked in on Elhady and asked for EMS to be called</p> <p>9 very early in your shift?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Okay. Then -- Were you in touch with the bridge</p> <p>12 throughout Mr. Elhady's experience at Detroit</p> <p>13 Receiving Hospital?</p> <p>14 <b>A. I think Officer Kehr was making calls to check in.</b></p> <p>15 Q. Okay. And how often were those calls being made?</p> <p>16 <b>A. Off the top of my head I couldn't tell you how often.</b></p> <p>17 Q. Would it be fair to assume that kind of each of these</p> <p>18 phrases in the report about when Elhady arrived at the</p> <p>19 hospital, and then it says no status update, awaiting</p> <p>20 medical care at 0740 -- when you see that section, is</p> <p>21 that likely the result of Kehr giving updates back at</p> <p>22 the bridge?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. And then the next paragraph says, "CBPO Rocky called</p> <p>25 and stated that Detroit Receiving Hospital physicians</p>

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21 (81 to 84)

81	<p>1 released Elhady." Do you see that?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And that's where you said earlier that you think you</p> <p>4 were the one who called because it says this?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Right? But your initial memory was that Kehr was</p> <p>7 doing the calling?</p> <p>8 <b>A. Yes, because I was driving.</b></p> <p>9 Q. That makes sense. And then it says that you with Kehr</p> <p>10 and Elhady were back en route to the bridge at 9:10</p> <p>11 hours; right?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And does that sound right to you, that the whole</p> <p>14 incident was approximately three hours long?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And then right beneath that it says that you arrived</p> <p>17 back at the Ambassador Bridge at 9:20. Do you see</p> <p>18 that?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. And does that sound accurate?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And then it says Elhady was allowed to leave the CBP</p> <p>23 facility at 9:25. Do you see that?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. And to your recollection he was allowed to leave just</p>	83	<p>1 why Mr. Elhady had been detained?</p> <p>2 MR. GOULDING: Same instruction. You can</p> <p>3 answer yes or no.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MS. HOMER:</p> <p>6 Q. How did you learn it?</p> <p>7 MR. GOULDING: You can answer how you</p> <p>8 learned it provided it doesn't reveal the content of</p> <p>9 what you learned.</p> <p>10 THE WITNESS: As a result of the case.</p> <p>11 Elhady's case against us.</p> <p>12 BY MS. HOMER:</p> <p>13 Q. Did you discuss Elhady's case with other CBP officers</p> <p>14 after it was filed?</p> <p>15 <b>A. Just in general terms.</b></p> <p>16 Q. Okay. So when you say you learned after the case why</p> <p>17 he had been detained, did you learn that from an</p> <p>18 official CBP source or document or did you learn it</p> <p>19 based on your own inference from the lawsuit itself?</p> <p>20 <b>A. From the document that was provided to me.</b></p> <p>21 Q. And when you say the document, what document was that?</p> <p>22 <b>A. The TECS printout.</b></p> <p>23 Q. Okay. So at some point you have received a TECS</p> <p>24 printout that has more information than the one I</p> <p>25 provided you?</p>
82	<p>1 by dropping him off at his car?</p> <p>2 <b>A. To my recollection.</b></p> <p>3 Q. Okay. But it's possible you took him back inside the</p> <p>4 lobby for a minute?</p> <p>5 <b>A. It's possible that either Officer Kehr or myself ran</b></p> <p>6 <b>in to check to make sure that he was okay to leave.</b></p> <p>7 Q. Okay. But you have no memory of bringing him into the</p> <p>8 lobby?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Do you have any memory of the moment when his</p> <p>11 handcuffs were taken off?</p> <p>12 <b>A. Nothing specific.</b></p> <p>13 Q. At any point during your involvement with Mr. Elhady's</p> <p>14 medical treatment, did anyone at the bridge give you</p> <p>15 an update about why Mr. Elhady was being detained?</p> <p>16 <b>A. No.</b></p> <p>17 Q. At any point after Mr. Elhady's treatment, did you</p> <p>18 learn why Mr. Elhady had been detained?</p> <p>19 MR. GOULDING: I'll object. The witness,</p> <p>20 you can answer yes or no to that, and if you could</p> <p>21 please pause just for a half a second before you</p> <p>22 answer these questions, that would be helpful.</p> <p>23 THE WITNESS: No.</p> <p>24 BY MS. HOMER:</p> <p>25 Q. Did you come to learn in any form after this incident</p>	84	<p>1 <b>A. I don't recall if it has more.</b></p> <p>2 Q. Is there anything in this TECS printout that you can</p> <p>3 publicly see right now that indicates why Mr. Elhady</p> <p>4 was detained?</p> <p>5 <b>A. I'm sorry. Could you restate the question?</b></p> <p>6 Q. Yeah. Is there anything in this document, the TECS</p> <p>7 report you have in front of you, that indicates why</p> <p>8 Mr. Elhady was detained?</p> <p>9 MR. GOULDING: I'll again direct the</p> <p>10 witness you can answer yes or no to that.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MS. HOMER:</p> <p>13 Q. What information are you looking at that indicates why</p> <p>14 he was detained? Can you point me to it in the</p> <p>15 document?</p> <p>16 <b>A. Officer experience.</b></p> <p>17 Q. What do you mean by officer experience?</p> <p>18 <b>A. I can read the format and understand what was going</b></p> <p>19 <b>on.</b></p> <p>20 Q. Okay. So there are -- Are there any literal words you</p> <p>21 can read to me right now that would tell me why Elhady</p> <p>22 was detained?</p> <p>23 <b>A. No.</b></p> <p>24 Q. But based on the overall contents of the report and</p> <p>25 your experience of a decade as a CBP officer, you have</p>

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22 (85 to 88)

85	<p>1 a sense of why Elhady was detained; is that correct?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Okay. Can you tell me what that sense is?</p> <p>4 MR. GOULDING: Objection, scope, law</p> <p>5 information privilege and I'll direct the witness not</p> <p>6 to answer.</p> <p>7 MS. HOMER: I was trying to be careful.</p> <p>8 MR. GOULDING: And you were until that last</p> <p>9 one.</p> <p>10 BY MS. HOMER:</p> <p>11 Q. Are you going to follow your counsel's instruction to</p> <p>12 not tell me why Mr. Elhady was detained?</p> <p>13 <b>A. Yes, I'm going to follow my counsel's direction.</b></p> <p>14 Q. Yeah. It's generally a good idea to do what your</p> <p>15 lawyers tell you. Do you know Blake Bradley?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. How well do you know Blake Bradley?</p> <p>18 <b>A. I worked with him for a few years at the Ambassador</b></p> <p>19 <b>Bridge.</b></p> <p>20 Q. Did you work with Mr. Bradley in your capacity as a</p> <p>21 counter-terrorism response officer?</p> <p>22 <b>A. Directly, not that I can recall.</b></p> <p>23 Q. Do you remember what Blake Bradley's title was in</p> <p>24 April of 2015?</p> <p>25 <b>A. Customs and Border Protection officer.</b></p>	87	<p>1 <b>A. No.</b></p> <p>2 Q. Have you ever had any other individual, other than</p> <p>3 Anas Elhady, complain about back pain while detained</p> <p>4 in an Ambassador Bridge cell?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Have you ever had any individual complain about how</p> <p>7 cold the cell was?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Following this April 11th, 2015 incident with Mr.</p> <p>10 Elhady, but before this lawsuit, has anyone at CBP</p> <p>11 discussed Mr. Elhady's experience with you?</p> <p>12 <b>A. No.</b></p> <p>13 MR. ANCHILL: I'm going to object to</p> <p>14 foundation.</p> <p>15 THE WITNESS: I'm sorry. Apologize.</p> <p>16 MR. ANCHILL: Foundation. Go ahead. You</p> <p>17 can answer.</p> <p>18 THE WITNESS: No.</p> <p>19 BY MS. HOMER:</p> <p>20 Q. Are you aware of any changes to the furnishings of a</p> <p>21 holding cell since 2015?</p> <p>22 <b>A. No.</b></p> <p>23 Q. Are you aware of any changes to the lighting in the</p> <p>24 holding cells since 2015?</p> <p>25 <b>A. No.</b></p>
86	<p>1 Q. Do you remember if he had any special designation</p> <p>2 within that like counter-terrorism response officer?</p> <p>3 <b>A. I believe he was also a counter-terrorism response</b></p> <p>4 <b>officer.</b></p> <p>5 Q. Do you have any understanding as to why Blake Bradley</p> <p>6 was involved in the detention of Anas Elhady on April</p> <p>7 11th, 2015?</p> <p>8 MR. GOULDING: Objection, scope, law</p> <p>9 enforcement privilege and I'll direct the witness not</p> <p>10 to answer.</p> <p>11 THE WITNESS: I'll listen to my counsel.</p> <p>12 BY MS. HOMER:</p> <p>13 Q. Thank you. Did you ever step inside the cell Anas</p> <p>14 Elhady was being detained in on April 11th, 2015?</p> <p>15 <b>A. Not that I can recall.</b></p> <p>16 Q. Have you, since April 11th, 2015, ever seen a record</p> <p>17 of the detention log for Mr. Elhady from that day?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Do you have any memory of that detention log</p> <p>20 reflecting that Mr. Elhady had not been checked in on</p> <p>21 in regular 15 minute increments?</p> <p>22 MR. ANCHILL: I'm going to object. Asked</p> <p>23 and answered.</p> <p>24 BY MS. HOMER:</p> <p>25 Q. You can still answer.</p>	88	<p>1 Q. Are you aware of any changes to the HVAC system that</p> <p>2 feeds the holding cells since 2015?</p> <p>3 <b>A. No.</b></p> <p>4 Q. You mentioned earlier that this I-216 form was</p> <p>5 introduced after 2015; is that correct?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And you mentioned earlier that the paper form I showed</p> <p>8 you is no longer in use?</p> <p>9 <b>A. Correct.</b></p> <p>10 Q. And that's because there's now a computerized</p> <p>11 detention system form?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Other than the change in form, has there been any</p> <p>14 change to CBP's detention protocols that you're aware</p> <p>15 of since April 2015?</p> <p>16 <b>A. No.</b></p> <p>17 Q. On April 11, 2015, was Mr. Elhady under any form of</p> <p>18 criminal investigation? To your knowledge?</p> <p>19 MR. GOULDING: Objection, scope, law</p> <p>20 enforcement privilege, and I'll direct the witness not</p> <p>21 to answer.</p> <p>22 THE WITNESS: I'll listen to my counsel.</p> <p>23 BY MS. HOMER:</p> <p>24 Q. Okay. On April 11th, 2015, was there an outstanding</p> <p>25 warrant for Mr. Elhady's arrest, to your knowledge?</p>

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23 (89 to 92)

89		91
1	<b>A. No.</b>	1 MR. GOULDING: Yes.
2	Q. On April 11th, 2015, to your knowledge, was any	2 (Off the record at 12:33 p.m.)
3	contraband on found on Mr. Elhady or in his vehicle?	3 (Back on the record at 12:34 p.m.)
4	<b>A. No.</b>	4 BY MS. HOMER:
5	Q. Do your interactions with Mr. Elhady from April 2015	5 Q. Okay. I will break the question into two to override
6	stand out as unusual in any way?	6 Ben's form objection. So here's a yes or no question.
7	<b>A. Yes.</b>	7 In your job responsibilities as a CBP officer at the
8	Q. Why?	8 Ambassador Bridge, have there been any other
9	MR. GOULDING: I'll direct the witness that	9 experiences that stand out to you as unusual or
10	if you can answer that without revealing law	10 extraordinary?
11	enforcement privilege, you may. Otherwise you may	11 <b>A. Yes.</b>
12	not, and if you'd like to step out, we can preview the	12 Q. Can you tell me what some of those experiences are?
13	answer.	13 <b>A. Yes.</b>
14	THE WITNESS: Can we step out?	14 Q. Go ahead.
15	MR. GOULDING: Yes.	15 <b>A. I've seized drugs, illegal drugs from various</b>
16	(Off the record at 12:29 p.m.)	16 <b>celebrities that have crossed the border.</b>
17	(Back on the record at 12:32 p.m.)	17 Q. Can you tell me which celebrities?
18	MS. HOMER: We can go back on the record.	18 <b>A. No.</b>
19	Can you read back that last question?	19 Q. Have you had anything else other than seizing drugs
20	(The following portion of the record was	20 from celebrities that you remember as particularly
21	read by the reporter at 12:32 p.m.:	21 unusual or extraordinary?
22	Q. "Do your interactions with Mr. Elhady	22 <b>A. Truck driver having a heart attack and running into</b>
23	from April 2015 stand out as unusual in any	23 <b>the wall and being ejected from his truck.</b>
24	way?	24 Q. Is that another --
25	<b>A. Yes.</b>	25 <b>A. That's down in the secondary -- or down in the</b>
90		92
1	Q. Why?")	1 <b>Ambassador Bridge Company parking area, or driving</b>
2	MR. GOULDING: For the record, agency	2 <b>area. The access roads for the bridge.</b>
3	counsel has previewed the answer. It does not contain	3 Q. And how did you respond to that truck driver being,
4	privileged information and the witness is permitted to	4 having a heart attack?
5	answer.	5 <b>A. I did not respond.</b>
6	THE WITNESS: Because he requested medical	6 Q. Did you see it happen?
7	attention.	7 <b>A. Heard.</b>
8	BY MS. HOMER:	8 Q. Heard. And who responded?
9	Q. And in your experience individuals requesting medical	9 <b>A. Various officers.</b>
10	attention at the border is relatively rare?	10 Q. And was medical attention called immediately?
11	<b>A. Yes.</b>	11 <b>A. Yes.</b>
12	Q. What other experiences have you had as a CBP officer	12 Q. Aside from hearing it happen, did you have any
13	at the Ambassador Bridge that stand out as	13 involvement in that incident?
14	particularly unusual or extraordinary?	14 <b>A. No.</b>
15	MR. GOULDING: I'll give the witness the	15 Q. Okay. Has there ever been anything particularly
16	same instructions. It's a broad question. To the	16 violent that has occurred in the course of your
17	extent anything unusual or extraordinary involves law	17 responsibilities as a CBP officer at the Ambassador
18	enforcement privileged information, you cannot reveal	18 Bridge?
19	it. If there's any doubt in your mind, we'll again go	19 <b>A. To me personally?</b>
20	out and talk about it.	20 Q. In your vicinity that you're aware of.
21	MR. ANCHILL: And I'll object based on	21 <b>A. Not while I've been on shift.</b>
22	form. It assumes that there was something else	22 Q. Has there been a violent incident that's happened when
23	extraordinary that occurred during his time working as	23 you weren't on shift?
24	an officer.	24 <b>A. Yes.</b>
25	THE WITNESS: Step out?	25 Q. Did you personally witness it?

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24 (93 to 96)

93	<p>1 <b>A. No.</b></p> <p>2 Q. Okay. Is this a violent incident that happened at the</p> <p>3 bridge that you're just aware of?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. What was that incident?</p> <p>6 <b>A. A few years ago there was a shooting. Maybe five, six</b></p> <p>7 <b>years ago.</b></p> <p>8 Q. Has anyone ever pulled a weapon on you while you have</p> <p>9 been on duty as a CBP officer at the Ambassador</p> <p>10 Bridge?</p> <p>11 <b>A. No.</b></p> <p>12 Q. Have you ever confiscated a weapon from someone while</p> <p>13 you were on duty?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Do those moments of confiscating a weapon stand out to</p> <p>16 you or are they ordinary?</p> <p>17 <b>A. It stands out to me.</b></p> <p>18 Q. Approximately how many times has that happened?</p> <p>19 <b>A. That I've taken a weapon off of an individual?</b></p> <p>20 Q. Yeah.</p> <p>21 <b>A. Just a few times.</b></p> <p>22 Q. Did you feel threatened during those interactions when</p> <p>23 you took a weapon off of an individual?</p> <p>24 <b>A. No.</b></p> <p>25 Q. Was the individual complying with your instructions?</p>	95	<p>1 with at the border who you considered to present a</p> <p>2 higher risk of violence towards you or the country?</p> <p>3 <b>A. I don't understand your question.</b></p> <p>4 Q. Does CBP rank travelers according to their risk?</p> <p>5 Actually that's a bad question. Does CBP ever</p> <p>6 designate travelers as higher risk than other</p> <p>7 travelers?</p> <p>8 MR. GOULDING: Objection, scope, law</p> <p>9 enforcement privilege and I'll direct the witness not</p> <p>10 to answer.</p> <p>11 THE WITNESS: I'll listen to counsel.</p> <p>12 BY MS. HOMER:</p> <p>13 Q. Has there ever been an interaction you've had with any</p> <p>14 traveler that has just caused you to be on higher</p> <p>15 alert than you ordinarily are in the course of your</p> <p>16 duties?</p> <p>17 <b>A. I'm always on alert during the course of my duties.</b></p> <p>18 Q. Have you ever been disciplined as a CBP officer?</p> <p>19 <b>A. Not that I can recall.</b></p> <p>20 MS. HOMER: I think I'm done. I am done.</p> <p>21 I have no further questions.</p> <p>22 EXAMINATION</p> <p>23 BY MR. ANCHILL:</p> <p>24 Q. Good afternoon, Officer Rocky.</p> <p>25 <b>A. Good afternoon. Is it that time already?</b></p>
94	<p>1 <b>A. Yes.</b></p> <p>2 Q. Have you ever dealt with someone who was particularly</p> <p>3 combative or aggressive towards you as a CBP officer?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Have you ever personally been involved in a situation</p> <p>6 as a CBP officer that you felt was dangerous?</p> <p>7 <b>A. Every day is potentially dangerous.</b></p> <p>8 Q. Have you ever felt like a situation was escalating or</p> <p>9 could turn violent?</p> <p>10 <b>A. Again, every situation could turn violent.</b></p> <p>11 Q. Okay. Has there ever been a moment as a CBP officer</p> <p>12 that you have been afraid for your safety, like a</p> <p>13 heightened level?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Am I correct that one of the missions of CBP is to</p> <p>16 deter and prevent terrorism?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Have you ever interacted with someone you thought</p> <p>19 might be a terrorist at the border?</p> <p>20 MR. GOULDING: Objection, scope, law</p> <p>21 enforcement privilege and I'll direct the witness not</p> <p>22 to answer.</p> <p>23 THE WITNESS: I'll listen to counsel.</p> <p>24 BY MS. HOMER:</p> <p>25 Q. Has there ever been an individual you were interacting</p>	96	<p>1 MR. CARTY: It is.</p> <p>2 BY MR. ANCHILL:</p> <p>3 Q. You testified that you worked overtime as a CBP</p> <p>4 officer; correct?</p> <p>5 <b>A. I have, yes.</b></p> <p>6 Q. Did you work overtime on April 11th, 2015?</p> <p>7 <b>A. I don't recall but the schedule shows that I did not.</b></p> <p>8 Q. You were working the 6:00 a.m. shift on April 11,</p> <p>9 2015?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And you were asked to check on Mr. Elhady shortly</p> <p>12 after your 6:00 a.m. shift started; is that correct?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. If the EMS records say they were dispatched at 6:11,</p> <p>15 do you have any reason to believe that time is wrong?</p> <p>16 <b>A. No.</b></p> <p>17 Q. If EMS was dispatched at 6:11, would that mean that</p> <p>18 you checked on Mr. Elhady almost immediately upon</p> <p>19 starting your shift?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. The TECS report says that you and Officer Kehr were</p> <p>22 escorts for Mr. Elhady at 6:25. Does that mean that</p> <p>23 the ambulance arrived before that?</p> <p>24 <b>A. Most likely.</b></p> <p>25 Q. What's the first memory you have of seeing Mr. Elhady?</p>



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25 (97 to 100)

97	<p>1 <b>A. Seeing him in the cell and when I was doing the</b></p> <p>2 <b>welfare check.</b></p> <p>3 Q. Shortly after your shift started, your 6:00 a.m. shift</p> <p>4 started?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. When you first saw Mr. Elhady, how was he positioned?</p> <p>7 <b>A. I can't recall if he was standing or sitting.</b></p> <p>8 Q. Was he conscious?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Before seeing him, did you hear him yelling?</p> <p>11 <b>A. No.</b></p> <p>12 Q. Did you hear any voice at all coming from the cells</p> <p>13 before seeing Mr. Elhady that morning?</p> <p>14 <b>A. No.</b></p> <p>15 Q. What did Mr. Elhady look like generally when you first</p> <p>16 saw him?</p> <p>17 <b>A. Young adult.</b></p> <p>18 Q. Did he appear to be in any kind of medical distress or</p> <p>19 crisis?</p> <p>20 <b>A. Not that I could determine.</b></p> <p>21 Q. Was he shaking or shivering?</p> <p>22 <b>A. No.</b></p> <p>23 Q. Did he tell you that he had passed out?</p> <p>24 <b>A. No.</b></p> <p>25 Q. Did he tell you that he had a headache?</p>	99	<p>1 Q. Did someone instruct you to handcuff him?</p> <p>2 <b>A. They may have instructed Officer Kehr. I was most</b></p> <p>3 <b>likely at that point, I was getting the transport van</b></p> <p>4 <b>to follow.</b></p> <p>5 Q. In the time that you were with Mr. Elhady, did you</p> <p>6 ever hear him voice any complaints about his</p> <p>7 handcuffs?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Were there EMTs that you saw?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Do you recall their genders?</p> <p>12 <b>A. I believe one was male and one was female. I know at</b></p> <p>13 <b>least one was female.</b></p> <p>14 Q. Do you remember anything about the EMT in the back of</p> <p>15 the ambulance?</p> <p>16 <b>A. I believe that was the female.</b></p> <p>17 Q. Do you have any memory of any interactions between</p> <p>18 Officer Kehr and the EMT?</p> <p>19 <b>A. No.</b></p> <p>20 Q. When the ambulance got to the hospital, did you</p> <p>21 observe any tension between Officer Kehr and the EMT?</p> <p>22 <b>A. No.</b></p> <p>23 Q. If you had observed tension between Officer Kehr and</p> <p>24 the EMT, do you think you'd remember that?</p> <p>25 <b>A. Yes.</b></p>
98	<p>1 <b>A. No.</b></p> <p>2 Q. Did he complain about being cold?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Did he say anything about the cell temperature?</p> <p>5 <b>A. No.</b></p> <p>6 Q. What did he say to you?</p> <p>7 <b>A. His complaint was that his back hurt and I asked him</b></p> <p>8 <b>if he wanted EMS at that time.</b></p> <p>9 Q. And then what did you do?</p> <p>10 <b>A. Well, he stated that he wanted to go to the hospital</b></p> <p>11 <b>so I went and told the supervisors at that point.</b></p> <p>12 Q. And how did the supervisor respond?</p> <p>13 <b>A. Said that we can have him taken to the hospital but</b></p> <p>14 <b>let him know that if he doesn't go, he'll be out of</b></p> <p>15 <b>here in ten, 15 minutes.</b></p> <p>16 Q. So the ambulance was summoned; correct?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Officer Kehr testified that when Mr. Elhady arrived at</p> <p>19 the ambulance, he had his shoes and jacket. Do you</p> <p>20 have any recollection of whether Mr. Elhady had his</p> <p>21 shoes and jacket?</p> <p>22 <b>A. No. I do not.</b></p> <p>23 Q. Did you receive any instructions about transporting</p> <p>24 Mr. Elhady to the hospital?</p> <p>25 <b>A. Not that I can recall.</b></p>	100	<p>1 Q. Why is that?</p> <p>2 <b>A. That would be unusual.</b></p> <p>3 Q. Do you remember any interactions between yourself and</p> <p>4 any of the hospital nurses?</p> <p>5 <b>A. Nothing specific, no.</b></p> <p>6 Q. Do you remember any interactions between Officer Kehr</p> <p>7 and any of the hospital nurses?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Do you remember any interactions between yourself and</p> <p>10 any of the hospital doctors?</p> <p>11 <b>A. Just the doctor that examined Officer Elhady. Or Mr.</b></p> <p>12 <b>Elhady. Sorry.</b></p> <p>13 Q. And what do you recall?</p> <p>14 <b>A. The doctor asked me what was going on with Mr. Elhady,</b></p> <p>15 <b>and I said he was complaining of back pain.</b></p> <p>16 Q. Do you remember any interactions between Officer Kehr</p> <p>17 and any of the hospital doctors?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Did you get into an argument with one of the nurses?</p> <p>20 <b>A. No.</b></p> <p>21 Q. Did you get into an argument with one of the doctors?</p> <p>22 <b>A. No.</b></p> <p>23 Q. If you had gotten into an argument with one of the</p> <p>24 nurses or doctors, is that something you'd remember?</p> <p>25 <b>A. Yes.</b></p>



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26 (101 to 104)

101	<p>1 Q. Why is that?</p> <p>2 <b>A. It would be unusual.</b></p> <p>3 Q. Did you observe Officer Kehr getting into an argument</p> <p>4 with one of the nurses?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Did you observe Officer Kehr getting into an argument</p> <p>7 with one of the doctors?</p> <p>8 <b>A. No.</b></p> <p>9 Q. If you had observed Officer Kehr getting into an</p> <p>10 argument with one of the nurses or doctors, would you</p> <p>11 remember that?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Why?</p> <p>14 <b>A. It would be unusual.</b></p> <p>15 Q. You testified that there's no camera in the cells at</p> <p>16 the Ambassador Bridge; correct?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Are you sure?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. And they also did not have a camera in 2015; is that</p> <p>21 correct?</p> <p>22 <b>A. That's correct.</b></p> <p>23 Q. And you testified they had a water fountain?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. You testified that the thermostat that covers the cell</p>	103	<p>1 detention cell, where do you conduct that interview?</p> <p>2 <b>A. If they're being detained in a detention cell, we</b></p> <p>3 <b>would remove them from that and bring them to one of</b></p> <p>4 <b>the interview rooms.</b></p> <p>5 Q. So outside the cell?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Is that always the case?</p> <p>8 <b>A. Except for maybe a short question of what's your name</b></p> <p>9 <b>or what's your birth date, they would always be</b></p> <p>10 <b>removed for questioning. Or interview, rather.</b></p> <p>11 Q. Has a traveler or a detainee ever asked you for a</p> <p>12 blanket or a jacket because they were cold?</p> <p>13 <b>A. No.</b></p> <p>14 Q. If they did, if they had, would you remember that?</p> <p>15 <b>A. Probably.</b></p> <p>16 Q. If you heard a traveler or detained person screaming</p> <p>17 for help from a detention cell, what would you do?</p> <p>18 <b>A. I would probably let supervisors know that he's</b></p> <p>19 <b>screaming for help and then go check on him if nobody</b></p> <p>20 <b>else had gotten up to go check on him.</b></p> <p>21 Q. Has that ever happened?</p> <p>22 <b>A. Not to my recollection.</b></p> <p>23 Q. Is that something you'd remember had it happened?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. If you personally observed a traveler or detainee in</p>
102	<p>1 area also covers additional areas in the building</p> <p>2 where officers are present; correct?</p> <p>3 <b>A. Yeah.</b></p> <p>4 Q. Is there any way that someone could make just the</p> <p>5 detention cells cold but not the other areas?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Can a nonsupervisory officer adjust the thermostat?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Why is that?</p> <p>10 <b>A. Well, the supervisors are the ones that have the</b></p> <p>11 <b>access to the key to unlock to boxes that cover the</b></p> <p>12 <b>thermostats.</b></p> <p>13 Q. Have you ever adjusted the thermostat in the building?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Have you ever had custody to the key to the box</p> <p>16 enclosing the thermostat?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Has anyone ever complained to you about dangerously</p> <p>19 cold conditions in the detention cells at the</p> <p>20 Ambassador Bridge?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Has anyone ever complained to you about the cell</p> <p>23 lights being too bright?</p> <p>24 <b>A. No.</b></p> <p>25 Q. When you interview a traveler that's detained in a</p>	104	<p>1 need of medical attention, what would you do?</p> <p>2 <b>A. I would definitely let supervisors know. If it was</b></p> <p>3 <b>something that required immediate first aid attention,</b></p> <p>4 <b>I would probably try to do that, you know, if they're</b></p> <p>5 <b>bleeding or something.</b></p> <p>6 Q. Have you ever been part of a conspiracy by CBP</p> <p>7 officers to harm or torture a detainee?</p> <p>8 <b>A. No.</b></p> <p>9 MS. HOMER: Objection, calls for a legal</p> <p>10 conclusion.</p> <p>11 BY MR. ANCHILL:</p> <p>12 Q. What's the answer?</p> <p>13 <b>A. No.</b></p> <p>14 Q. Are you aware of any way that the detention cells can</p> <p>15 be chilled to a dangerously low temperature?</p> <p>16 <b>A. No.</b></p> <p>17 Q. What would you do if you were approached about a plan</p> <p>18 to chill a detention cell to a dangerously low</p> <p>19 temperature and then put somebody in it?</p> <p>20 MS. HOMER: Objection, calls for</p> <p>21 speculation.</p> <p>22 THE WITNESS: I would definitely let</p> <p>23 somebody know. Whether a supervisor or watch</p> <p>24 commander, somebody would know.</p> <p>25 BY MR. ANCHILL:</p>

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27 (105 to 108)

105	<p>1 Q. Would you remember it if you were approached with a</p> <p>2 plan like that?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. How do you know you'd remember that?</p> <p>5 <b>A. That would be so unusual as to be -- it would stick in</b></p> <p>6 <b>my mind forever.</b></p> <p>7 Q. Have you ever done anything to hide your identity</p> <p>8 while working as a CBP officer?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Have you ever refused to identify yourself when a</p> <p>11 member of the public asks your name?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Do you wear a uniform while you're on duty?</p> <p>14 <b>A. Yes, I do.</b></p> <p>15 Q. Always?</p> <p>16 <b>A. Always.</b></p> <p>17 Q. Does the uniform have your name on it?</p> <p>18 <b>A. Yes, it does.</b></p> <p>19 Q. You testified that when you checked on a detained</p> <p>20 person at the bridge, you would record it on a log; is</p> <p>21 that correct?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. And in 2015 that was a paper log?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Whose responsibility was it to maintain that log?</p>	107	<p>1 (Back on the record at 12:58 p.m.)</p> <p>2 BY MR. ANCHILL:</p> <p>3 Q. Do you have any knowledge as to whether the EMTs came</p> <p>4 inside the building to get Mr. Elhady or if Mr. Elhady</p> <p>5 came out to them?</p> <p>6 <b>A. No, I do not.</b></p> <p>7 Q. Why is that?</p> <p>8 <b>A. At that time I would have been getting the detention</b></p> <p>9 <b>van so I wouldn't have been in the area.</b></p> <p>10 MR. ANCHILL: Thank you. I have nothing</p> <p>11 further.</p> <p>12 RE-EXAMINATION</p> <p>13 BY MS. HOMER:</p> <p>14 Q. Okay. I just have a few more questions. You didn't</p> <p>15 personally interview Mr. Elhady to determine any of</p> <p>16 the contents of that TECS report, did you?</p> <p>17 <b>A. No.</b></p> <p>18 Q. You weren't on shift yet?</p> <p>19 <b>A. No.</b></p> <p>20 Q. And you did talk with Mr. Elhady about his need for</p> <p>21 medical attention through the door; correct?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. But you don't remember that conversation verbatim, do</p> <p>24 you?</p> <p>25 <b>A. No.</b></p>
106	<p>1 <b>A. While the case was in progress, that would be the case</b></p> <p>2 <b>officer.</b></p> <p>3 Q. And what about after that?</p> <p>4 <b>A. I don't know.</b></p> <p>5 Q. Was it ever your responsibility?</p> <p>6 <b>A. No.</b></p> <p>7 Q. When you're securing a detainee in a detention cell,</p> <p>8 do you take away the detainee's jacket?</p> <p>9 <b>A. We would take off everything to their basilar, like</b></p> <p>10 <b>whether it was a T-shirt or sweater. For pat-down</b></p> <p>11 <b>purposes that would all be removed.</b></p> <p>12 Q. So that would include a jacket?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Would you always take away a jacket?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. You testified that there's a bench in the detention</p> <p>17 cells; is that correct?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And that the bench is made of wood and metal?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. What's the part of the bench that you sit on made out</p> <p>22 of?</p> <p>23 <b>A. Wood.</b></p> <p>24 MR. ANCHILL: Let's take a quick break.</p> <p>25 (Off the record at 12:55 p.m.)</p>	108	<p>1 Q. It was more than four years ago?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Between Mr. Elhady requesting medical attention and</p> <p>4 leaving the Ambassador Bridge in an ambulance, did you</p> <p>5 personally return any personal items to Mr. Elhady?</p> <p>6 <b>A. No.</b></p> <p>7 Q. You mentioned a case officer earlier. Who was the</p> <p>8 case officer?</p> <p>9 <b>A. The officer that would have been conducting the</b></p> <p>10 <b>interviews.</b></p> <p>11 Q. And is that different than a supervisor?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Do you know who the case officer was with respect to</p> <p>14 Mr. Elhady?</p> <p>15 <b>A. TECS record shows that it was Officer Bradley.</b></p> <p>16 Q. Do you remember whether Elhady was in detention cell</p> <p>17 one or detention cell two?</p> <p>18 <b>A. He -- I believe he was in detention cell one.</b></p> <p>19 Q. But you're not sure?</p> <p>20 <b>A. Not completely sure but most likely number one.</b></p> <p>21 Q. Okay.</p> <p>22 MS. HOMER: That's it. Those are my</p> <p>23 questions.</p> <p>24 MR. ANCHILL: Nothing further here.</p> <p>25 THE WITNESS: Okay.</p>

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28 (109 to 112)

<p>1 (The deposition was concluded at 1:01 p.m. 2 Signature of the witness was not requested by 3 counsel for the respective parties hereto.) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	109	
<p>1 CERTIFICATE OF NOTARY 2 STATE OF MICHIGAN ) 3 ) SS 4 COUNTY OF WAYNE ) 5 6 I, JOANNE SMITH, certify that this 7 deposition was taken before me on the date 8 hereinbefore set forth; that the foregoing questions 9 and answers were recorded by me stenographically and 10 reduced to computer transcription; that this is a 11 true, full and correct transcript of my stenographic 12 notes so taken; and that I am not related to, nor of 13 counsel to, either party nor interested in the event 14 of this cause. 15 16 17 18 19 20 21 22 23 24 25</p>	110	

*Joanne Smith*

Joanne Smith, CSR-3099

Notary Public,

Wayne, Michigan.

My Commission expires: 1-24-23

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